

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**Z.C. ORDER NO. 06-08****Z.C. Case No. 06-08****Consolidated Planned Unit Development for Fort Lincoln/Gateway Village, LLC
April 9, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on December 18, 2006 to consider an application from Fort Lincoln/Gateway Village, LLC, for the consolidated review and approval of a planned unit development ("PUD") for the property known as Parcel 173/145 in Square 4325, pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

At its public meeting on February 12, 2007, the Commission took proposed action by a vote of 4-0-1 to approve the application and plans that were submitted into the record.

The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated March 1, 2007, found that the proposed PUD would not affect the federal interests in the National Capitol, or be inconsistent with the Comprehensive Plan for the National Capitol.

The Commission took final action to approve the application on April 9, 2007, by a vote of 4-0-1.

FINDINGS OF FACT**PROCEDURAL HISTORY**

1. The property that is the subject of this application is Parcel 173/145 in Square 4325 and is bounded by Fort Lincoln Drive, N.E. to the west and south, Fort Lincoln Drive North, N.E. to the east, and Commodore Joshua Barney Drive, N.E. to the north (the "Subject Property" or "Property"). The Subject Property is located in the Fort Lincoln neighborhood in Ward 5. The Property consists of approximately 23 acres or 1,003,544 square feet of land and is located in an R-5-D Zone District. (Exhibit 22, p. 1.)
2. Fort Lincoln/Gateway Village, LLC (the "Applicant") is a joint venture owned by Fort Lincoln New Town Corporation and the Concordia Group. (Exhibit 22, p. 1.)

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 2

3. The Applicant seeks to construct a 357-unit townhouse and townhouse condominium development consisting of three sizes of single-family townhouses (16-foot, 20-foot, and 24-foot wide models) and "2 over 2" townhouse condominiums. (Exhibit 22, p. 2.)
4. The Commission voted 3-1-1 to set the case down for a public hearing at its June 12, 2006 public meeting. At that meeting, the Commission members requested the following plans and information: detailing grading and enhanced landscape plans (including more information and details on the proposed Community Green), a revised site plan, and more information regarding the relationship of this project to the proposed retail project across Fort Lincoln Drive. (Tr. June 12, 2006, pp. 16-22.)
5. In its pre-hearing statement, dated August 11, 2006, the Applicant addressed and submitted information on the above-mentioned questions from the Commission. In addition, the Applicant included information on the previously approved PUD for the site (Z.C. Order No. 903) and an analysis of how the proposed PUD conforms to the Fort Lincoln Urban Renewal Plan ("FLURA"). (Exhibit 22.)
6. The Applicant filed a supplemental submission on November 28, 2006, which included: resumes of proposed expert witnesses, a description of the project and community amenities, updated zoning information, and a site context plan to show proposed traffic improvements for the area. (Exhibit 27.)
7. The Commission held a public hearing on the above-mentioned application on December 18, 2006, which was conducted in accordance with the provisions of 11 DCMR § 3022.
8. At the December 18, 2006 public hearing, Paul Tummonds of Pillsbury Winthrop Shaw Pittman, LLP presented the case on behalf of the Applicant. The Commission accepted John Amatetti of Vika Incorporated as an expert in civil engineering; Trini Rodriguez of ParkerRodriguez as an expert in land planning and landscape architecture; and Jami Milanovich of Wells & Associates, LLC as an expert in traffic engineering. (Tr. December 18, 2006, p. 8.)

PUD SITE AND SURROUNDING AREA

9. The Property includes approximately 23 acres or 1,003,544 square feet of vacant land and is located between Fort Lincoln Drive, N.E. and Commodore Joshua Barney Drive, N.E. (Exhibit 22, p. 1.) It is located in Ward 5 and in the Fort Lincoln Urban Renewal Plan Area. (Exhibit 22, p. 6.)

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 3

10. The PUD site is part of the 360-acre residential neighborhood that was initially planned in 1972 as a federally-funded urban renewal community. Known as the Fort Lincoln Urban Renewal Area, development of the surrounding community, including the 22.97-acre site, is guided by the Fort Lincoln Urban Renewal Plan. The plan was most recently amended in 1994. (Exhibit 22, p. 6., Exhibit B.)
11. The Property has significant grade changes throughout the site and is currently overgrown with invasive, non-native tree and plant species. The site is bordered by thickly wooded and natural areas to the north and the west. (Exhibit 22, p. 1, Exhibit C-2B; Exhibit 35.)
12. Further to the west of the site are the Theodore Hagans Cultural Center and the Fort Lincoln Recreational Center, which provide a number of recreational amenities to the neighborhood. (Exhibit 22, pp. 1, 2.)
13. Fort Lincoln New Town Corporation is also developing a major retail project known as "Washington Gateway Shopping Center," located to the south of the Property. This project will consist of approximately 400,000 square feet of retail space on 42 acres of land. Washington Gateway Shopping Center will be anchored by a Costco, Target, and Shoppers Food Warehouse. (Exhibit 3, pp. 2, 3) This retail project is on land that was rezoned to C-2-B as a result of Z.C. Order No. 02-33. (Exhibit 3, p. 3.)

DESCRIPTION OF THE PUD PROJECT

14. The proposed 357-unit townhouse and townhouse condominium development will provide a variety of housing options for individuals and families seeking homeownership opportunities in Ward 5. The various unit types have been interspersed throughout the Property. The proposed density of the PUD project (0.753 FAR) is significantly lower than the matter-of-right density limitation (3.5 FAR) and the proposed building heights (40-43 feet and 54 feet) are also significantly lower than the maximum matter-of-right building height (90 feet) in the R-5-D District. (Exhibit 22, pp. ix, 2, 3.)
15. The 24-foot wide townhouses will include approximately 3,024 square feet of living area, which is comparable in size to typical single-family detached houses located in an R-5-D Zone District. Each single-family townhouse will be three stories and the "2 over 2" townhouse condominiums will be four stories tall. All of the single-family townhouse units will have family rooms or studies and garages on the first floor, kitchens and living areas on the main floor, and two or three bedrooms on the third floor. All of the townhouses will have decks in the rear. The "2 over 2" townhouse condominiums will include approximately 1,600

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 4

square feet in the lower level units and approximately 2,300 square feet in the upper level units. (Exhibit 22, p. 2., Exhibit A.)

16. The Project will provide a significant amount of open and green space. Open space accounts for 180,486 square feet (4.14 acres) or 17.98% of the site area. The overall average lot occupancy (which includes the decks) is 58.64%. (Exhibit 27, Exhibit C, pp. C-1 and C-6.)
17. The central open space provided in the project will be a large Community Green. The Community Green, which includes a total of 1.18 acres, is intended for non-organized, passive and active recreational use. The lawn will have a slope of 2% - 3%. At the eastern and western corners of the Community Green, more formal entrances to the Green will be marked with stone and brick paving, and, at the western corner, will include a pavilion. There will be a children's play area/tot lot just north of the Community Green. In addition, a rectangular Mews Green will be located at the western edge of the site and will serve as the terminus of the long east/west street that runs from the Community Green to the western edge of the site. A pocket park on the northern edge of the Property along Commodore Joshua Barney Drive provides additional green space and includes pedestrian connection from the project to the public street. (Exhibit 22, pp. 3, 4 and Exhibit A, p. L-1.)
18. All of the buildings will have entrances facing the Community Green, existing and proposed streets, or the proposed pocket park and Mews Green. The facades and sides of all the buildings will be predominantly brick. Side entrances to the townhomes will be provided for those that face the public street or the Community Green. (Exhibit 22, pp. 2, 3.)
19. All units will have one or two garage parking spaces (the 16-foot wide units will have a single parking space in the garage and a tandem parking space in the driveway) accessed from the rear of the units via alleys as well as driveway space for additional parking. The "2 over 2" condominiums will have one garage parking space and one tandem parking space for each unit. In addition, 182 additional guest parking spaces will be made available throughout the site on the interior private street system. (Exhibit 22, pp. 3, 19.)
20. The PUD project complies with the underlying zoning district requirements; however, pursuant to 11 DCMR Chapter 24, it requires relief from the front, rear, and side yard requirements (§§ 2516.5(b), 404, and 405) and to allow more than one principal structure on a single lot (§ 2516.1). This minor flexibility requested from the R-5-D District requirements will have no impact on the surrounding R-5-D-zoned properties. (Exhibit 22, p. 13, Exhibit A, pp. C-7 and C-7A.)

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 5

SATISFACTION OF PUD EVALUATION STANDARDS

21. Through written submissions and testimony to the Commission, the Applicant and its representatives noted that the proposed project will provide high quality residential development on the Subject Property with significant public benefits to the neighborhood and the District as a whole.
22. The Applicant's representative, Michele Hagans, testified that the goal of this project is to create high-quality homeownership opportunities and an attractive community that would be an integral part of the larger Fort Lincoln neighborhood. She confirmed that this will not be a "gated community" but instead will allow for residents, guests, and the Fort Lincoln community as a whole, to enjoy the large Community Green, the tot lots, and Mews Green by offering safe and convenient connections to the surrounding neighborhood. In addition, Ms. Hagans noted that the amenities package had been thoroughly negotiated with the Single Member District Commissioner and the Applicant will continue to work with the Advisory Neighborhood Commission ("ANC") and community to achieve and satisfy their financial commitment. (Tr. December 18, 2006, pp. 15-18.)
23. The Applicant's landscape architect, Trini Rodriguez, accepted as an expert in urban planning and landscape design, testified that the project was designed to create a strong sense of place and community orientation, taking into account streets, public spaces, and alleys. Ms. Rodriguez noted the importance of the open space to the project, the monumental entrances, the treatment of fences, and the landscaped median along Ft. Lincoln Drive. Ms. Rodriguez also discussed the pedestrian-friendly entrance from the residential project to the neighboring retail development. (Tr. December 18, 2006, pp. 19-28.)
24. Urban Design and Architecture: The proposed townhouses and condominium townhouses are designed to complement and elevate the level of architectural quality and design in this area of the District. The proposed design connects the homes to the public streets, incorporates the development into the existing neighborhood, and enhances the walkability of the interior streets. The proposed detached garages for the 24-foot wide townhouses allow for additional green space on those lots that are most likely to have families with children. The appearance of the retaining walls has been reduced through the terracing of the retaining walls and the landscaping. The proposed landscape plan and treatment of the Community Green, the pocket park, Mews Green, and the children's play area/tot lot provide both active and passive recreation activities for residents of the project and their guests. The landscape plans include a variety of street trees and alley trees that will be used to create a uniform setting along the interior

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 6

streets and to help soften the visual impact of the proposed alleys. (Exhibit 22, p. 17, Exhibit A; Exhibit 42.)

25. Site Planning: The site plan for the proposed project makes use of a vacant site that sits in the center of a developing neighborhood. The design of the residential complex intersperses street-oriented, rear-loaded townhouses in an efficient and economical manner appropriate for the R-5-D Zone District. The provided green spaces seamlessly tie into the existing and future fabric of the Fort Lincoln neighborhood. (Exhibit 3, p. 13; Exhibit 22, p. 18.)
26. Effective and Safe Vehicular and Pedestrian Access: The Project provides four means of vehicular access to Fort Lincoln Drive and Commodore Joshua Barney Drive. The connections to the surrounding streets allow pedestrians and vehicular traffic to enter and exit the development safely and efficiently. The new internal road system allows for two-way traffic. Safe and inviting sidewalks will be created along the surrounding public streets and throughout the site to encourage pedestrian activity and also mitigate pedestrian/vehicle conflicts. The PUD will provide residents with 714 parking spaces and 182 spaces designated for guests. (Exhibit 22, pp. 18, 19.)
27. The Applicant's traffic and parking expert provided written documentation and testimony that analyzed not just the Property at the Village of Washington Gateway but examined the proposed build-out of the Fort Lincoln area, a holistic approach that was recommended by the District Department of Transportation ("DDOT"). These additional areas include Dakota Crossing, which is currently under construction and consists of 209 townhouse units; the proposed Washington Gateway Shopping Center, which consists of 425,000 square feet of retail development; and the Wesley House development (currently under construction), which consists of 127 active adult apartment units. (Exhibit 27, Exhibit D; Tr. December 18, 2006, pp. 29-33.)
28. The private roadway improvements recommended by the traffic and parking expert and proposed by the Applicant include:
- Close the existing median break located along 33rd Place and construct median improvements to provide additional storage for the left-turn lane onto South Dakota Avenue from 33rd Place;
 - Extend the median on Fort Lincoln Drive North to better define travel paths for vehicles coming out of Premium Driveway and Commodore Joshua Barney Drive;

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 7

- Install traffic calming devices such as speed humps, speed tables, and/or raised crosswalks along Fort Lincoln Drive, particularly in the vicinity of the proposed crosswalk between the Village at Washington Gateway and the Washington Gateway Shopping Center;
 - Construct Commodore Joshua Barney Drive/Fort Lincoln Drive North/Premium Driveway as an all-way stop due to the unnatural configuration of the T-intersection (i.e., the major movement is not a through movement, it is a left-turn movement);
 - Construct the Village at Washington Gateway westernmost (full access) site driveway on Fort Lincoln Drive as an all-way stop including a stamped-concrete, raised speed table in order to prevent pedestrian/vehicle conflicts that would occur as the result of the proposed pedestrian crossing between the Village at Washington Gateway and the Washington Gateway Shopping Center; and
 - Landscape the medians along Fort Lincoln Drive between 33rd Place and Fort Lincoln Drive North, along Commodore Joshua Barney Drive, and along Fort Lincoln, pending DDOT approval. (Exhibit 35, Exhibit F.)
29. Housing: In addition to providing a significant number of market rate housing units, the project will also set-aside 30 workforce affordable units. The National Capital Revitalization Corporation ("NCRC") and the District of Columbia Public Schools ("DCPS") offer a home ownership program targeting DCPS employees. The Applicant intends to utilize this NCRC/DCPS program in the proposed PUD by offering 30 residential units to qualified DCPS employees. The sale of the affordable units will be targeted to DCPS employees with annual household incomes (four- person family size) between \$54,180 and \$72,240 (60% to 80% of the Washington D.C. Metropolitan Area Median Income). The 30 workforce housing units offered will be the first and second floor units within the stacked ("2 over 2") townhouse condominium buildings. The gross floor area for this unit type is approximately 1,600 square feet and these homes contain three bedrooms and two and one-half bathrooms. Each unit has a one-car garage and a tandem driveway space. The Affordable Housing Program will commence on the date that the building including the affordable units has received a certificate of occupancy and will run for ten years. Upon expiration of the ten-year term, these units may be sold at market rates. (Exhibit 22, p. 19; Exhibit 42, Exhibit A.)
30. Revenue for the District: The addition of 357 new households will result in the generation of additional tax revenues in the form of property, income, sales, and employment taxes for the District. (Exhibit 3, p. 15; Exhibit 22, p. 20.)

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 8

31. First Source Employment Program: The Applicant will enter into an agreement to participate in the Department of Employment Services ("DOES") First Source Employment Program to promote and encourage the hiring of District of Columbia residents during the development and construction process. (Exhibit 3, p. 15; Exhibit 22, Exhibit K.)
32. Local, Small, and Disadvantaged Businesses: The Applicant will enter into a Memorandum of Understanding ("MOU") with the Department of Small and Local Business Development ("DSLBD") to use the resources of the DSLBD to utilize local business enterprises in the development of this project. (Exhibit 3, p. 15; Exhibit 20, p. 20.)
33. Environmental Benefits: The Applicant stated that it is committed to a low impact development ("LID") strategy for the Property. John Amatetti, accepted as an expert in civil engineering, testified on behalf of the Applicant and stated that the most important element of LID is to try and minimize impervious surfaces from the outset of the project. He testified that infiltration also provides ground water recharge and is a benefit not only to the water quality but to the environment as a whole. Mr. Amatetti also testified that the survey done on the Property found no jurisdictional wetlands. (Tr. December 18, 2006, pp. 34-42.)
34. Due to the highly variable nature of the soil, the large amount of uncontrolled fill, and the highly plastic clays found on the Property, the Applicant's water quality control for this project is primarily provided by two large underground storm filter facilities located at the downstream end of the project. These filter systems have integral sediment traps and provide water filtration through multiple media filled cartridges. Treated water is then discharged into the storm water system. In addition to the storm filter facilities, the project will include multiple bioretention facilities. Bioretention facilities are planted areas in local depressions that are subject to temporary ponding of water during storm events. The bioretention facilities create a reduction in peak flow rate as the storm water filters through the various natural material layers. (Exhibit 42, Exhibit D.)

Water quantity control will be provided off-site in a proposed regional stormwater management pond. The regional stormwater management pond will provide peak reduction requirements to meet the District's environmental regulations for this site as well as adjoining properties. (Exhibit 42, Exhibits C and D.)

35. Uses of Special Value to the Neighborhood: The Applicant will provide the following public benefits and amenities. The total value of the community amenities package is \$183,000:

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 9

- Thurgood Marshall School/Playground Construction – The Applicant shall design and construct a playground facility at the Thurgood Marshall School located within the Fort Lincoln community. As a second phase to the pre-school playground, the Applicant shall work with the school administration to design a playground on the land that is now occupied by an obsolete cycling facility. The cost of this playground is approximately \$50,000.
- Scoreboard for the Baseball Field within Fort Lincoln – The Applicant shall purchase and install an electronic scoreboard for the baseball field located within the park at Fort Lincoln. The estimated cost is approximately \$40,000.
- Landscaping Package along Fort Lincoln Drive – The Applicant will contribute \$40,000 for installation and maintenance of plantings in accordance with a landscaping plan for the medians located along Fort Lincoln Drive and 31st Place, N.E., adjacent to the Village at Washington Gateway property. The Applicant shall maintain this landscaping for a period of three years from the date of its installation. The Applicant shall also provide for enhanced landscaping and maintenance of the area at the corner of Fort Lincoln Drive and 33rd Place.
- Trail Connection to the Adjacent Fort Lincoln Recreation Center – The Applicant shall create an environmentally-sensitive trail that connects the proposed development to the adjacent Fort Lincoln Recreation Center. The trail shall be sited and constructed of materials that will minimize disruption to the wooded area between the project and the recreation center. The cost of this component of the amenity package is approximately \$12,000.
- Fort Lincoln Community Day – The Applicant shall continue its sponsorship of the Fort Lincoln Community Day for an additional two years. The Fort Lincoln Community Day brings together residents of the greater Fort Lincoln neighborhood to celebrate their community and meet their neighbors. The Applicant will provide food, entertainment, and publicity for this event. The cost of this component of the amenity package is \$10,000 (\$5,000 per year).
- Fort Lincoln Resident Participation in the National Senior Olympics – The Applicant shall continue to send eligible Fort Lincoln residents to the National Senior Olympics. The National Senior Olympics will be held in Louisville, KY this year. The cost of this contribution is expected to be \$2,000.

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 10

- Publication of Community Newsletter – The Applicant shall underwrite the publishing of a community newsletter prepared by ANC 5A. The newsletter will be published two times per year. The community newsletter will provide information to residents of the Fort Lincoln community on various matters that affect their community and their everyday lives. The cost of this component of the amenity package is \$4,000.
- Renovation and Upgrade of the Theodore Hagans Cultural Center – The Applicant shall contribute \$25,000 for the renovation of space within the Theodore Hagans Cultural Center located within the Fort Lincoln community. These funds will be used to purchase and install exercise equipment, patio furniture and furnishings, and Hi-Definition televisions for the cultural center.

All of the above-referenced contributions shall be funded and the capital projects shall be completed (except for the three-year maintenance period for landscaped medians along Fort Lincoln Drive) within one year from the delivery of the first certificate of occupancy at the Village at Washington Gateway. (Exhibit 42.)

36. Comprehensive Plan: The District of Columbia Generalized Land Use Map includes the Subject Property in the medium-density residential land use category. The medium-density residential land use category anticipates multiple-unit housing, as well as row houses and other low- and medium-density housing options. Thus, the PUD is consistent with the Generalized Land Use Map designation for the Subject Property. (Exhibit 22, p. 23.)
37. The proposed project is consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The project is consistent with the following major themes of the Comprehensive Plan:
- Stabilizing the District's Neighborhoods: The PUD will create a 357-unit townhouse and townhouse condominium development, which will help stabilize the Fort Lincoln neighborhood. (Exhibit 22, p. 24.)
 - Respecting and Improving the Physical Character of the District: The project has been designed to be complementary to the surrounding neighborhood. All of the buildings will be built up to the street to create an attractive walkable community that is oriented towards the surrounding neighborhood. The development also provides multiple areas of usable, secure green space that can be utilized for many forms of recreation. (Exhibit 22, p. 25, Exhibit A.)

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 11

- Preserving and Ensuring Community Input: The Applicant met with community representatives and ANC 5A on numerous occasions. The ANC adopted a unanimous resolution in support of the application. (Exhibit 32.)
 - Providing for Diversity and Overall Social Responsibilities: The project will help further expand the range of housing options in the Fort Lincoln neighborhood. The inclusion of 30 workforce housing units targeted to DCPS employees will provide opportunities for couples and families to purchase new residential units in the neighborhood. (Exhibit 22, p. 26; Exhibit 42, Exhibit A.)
38. The PUD is consistent with many Major Elements of the Comprehensive Plan, including the Housing, Transportation, and Urban Design Elements, as well as the Generalized Land Use Map and portions of the Ward 5 Goals and Policies.
- Housing Element: The proposed development is consistent with the housing provisions of the Comprehensive Plan as it creates 357 new townhouses and condominium townhouses in an area that is identified on the Generalized Land Use Map to be a medium-density residential area. The proposed project will create new dwelling units in a community with significant for-sale housing needs on property that is currently vacant. The proposed residential community will serve as an anchor that strengthens and enhances the surrounding residential neighborhood.
 - Transportation Element: The Applicant will enhance the existing road network by creating an internal street system on the Subject Property that allows for two-way traffic and several access and egress points to the proposed development. Furthermore, the sidewalks of the proposed development will be connected to the existing sidewalk system on Commodore Joshua Barney Drive and Fort Lincoln Drive. The sidewalks and streets will be designed and constructed to DDOT standards. The sidewalks on these streets will be safer and more user-friendly with the removal of overgrown vegetation, as well as the integration of a complete pedestrian sidewalk system for the surrounding neighborhood. The orientation of the townhouses to the sidewalk also enhances the appearance and walkability of the pedestrian streetscape. Finally, more than two parking spaces per dwelling unit are provided, which is well above the parking ratio required in the R-5-D District.
 - Urban Design Element: The proposed development will reflect the beneficial architectural qualities of the surrounding residential

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 12

neighborhoods. In site planning and architectural detailing, the project will emphasize and help strengthen a neighborhood identity for this area. The project proposes an appropriate number and density of residential units, while allowing for sufficient private and public open space for the residents. The townhomes are oriented towards the street at the front, yet also have auto access through the rear alleys.

The area between Fort Lincoln Drive and Commodore Joshua Barney Drive currently lacks "a strong, positive physical identity." The addition of the proposed development to this area will strengthen the identity of this site. Attractive views of the side and front elevations of the townhomes as one walks or drives along either road will also provide passersby with a stronger sense of place than previously existed at this location.

- Generalized Land Use Map: The Comprehensive Plan Generalized Land Use Map includes the Subject Property in the medium-density residential land use category. The medium-density residential land use category envisions multiple-unit housing, as well as low- and moderate-density housing, such as row houses. The proposed project is consistent with the Generalized Land Use Map designation of this site.
 - Ward 5 Goals and Policies: Fort Lincoln New Town is designated as a Housing Opportunity Area in the Comprehensive Plan. The project will provide a quality residential development that respects the physical aspects of the Subject Property. The site is surrounded by streets with existing infrastructure that can accommodate the proposed use and intensity of the development, and the location of this project advances the objectives of the Ward 5 Plan. The PUD will also preserve approximately 4.14 acres of open space on the site. Finally, the application will help connect existing and proposed housing, recreation, and commercial projects into a cohesive and thriving Fort Lincoln community.
39. In response to issues raised by the Commission members at the December 18, 2006 public hearing, the Applicant filed a post-hearing submission (on January 22, 2007), which included the following information:
- The anticipated base price of the market rate units will range from \$375,000 - \$600,000 depending on unit size. Individuals and families with annual incomes of \$85,000 - \$120,000, which is roughly equivalent to 90% - 120% of AMI, will be able to afford these units.

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 13

- A revised summary of the Affordable Housing Program showing that the workforce affordable units will continue to be marketed to DCPS employees and the term of the program will be ten years;
- Updated community amenities package showing greater specificity with regard to the various components of the package and the increase in amenities to \$183,000;
- A revised stormwater management plan that incorporates various aspects of low-impact design/development;
- Landscape plans showing additional details regarding the location of alley trees, the deck configuration on the rear units, and the landscape treatment for the traffic median on Fort Lincoln Drive;
- A memorandum specifying who is responsible for each transportation improvement; and
- Summary of architectural controls that includes a description of the duties of the Architectural Review Board for the Village at Washington Gateway Homeowners Association, which will be created for this Project.

(Exhibit 42.)

GOVERNMENT REPORTS

40. In its December 8, 2006 report, the Office of Planning ("OP") recommended that the Commission approve the project. OP determined that the project is consistent with the goals and objectives of the Comprehensive Plan by stabilizing the neighborhood and increasing the range of housing options within Fort Lincoln. OP noted that the proposal is largely consistent with zoning requirements and is, in fact, a less intense development than could be achieved as a matter-of-right. The development will include public – and some private – open space, parking well above ordinance requirements, and pedestrian amenities to link it to the future commercial development and the rest of the neighborhood. (Exhibit 28, p. 10.)
41. The December 8, 2006 report included the following recommendations for additional action by the Applicant:
 - Provide more details about the amenity package;
 - Require that the project not be a gated community;

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 14

- Commit to demarcation of the tree save area, prior to the clearing and grading, through the placement of adequately designed and installed fencing;
 - Provide an executed First Source Agreement prior to final action;
 - Install an automatic, underground watering system for retaining wall terrace areas at the time of retaining wall construction; and
 - Work with the Department of Parks and Recreation on the alignment and design of the trail to the recreation center. (Exhibit 28, p. 1.)
42. In its December 14, 2006 report, DDOT stated that it had no objection to the proposed PUD provided that all proposed traffic improvements are implemented. (Exhibit 31 and 41.) These improvements include:
- Extend the median on Fort Lincoln Drive North to better define travel paths for vehicles coming out of Premium Driveway and Commodore Joshua Barney Drive;
 - Install traffic calming devices such as speed humps, speed tables, and/or raised crosswalks along Fort Lincoln Drive, particularly in the vicinity of the proposed crosswalk between the Village at Washington Gateway and the Washington Gateway Shopping Center;
 - Construct Commodore Joshua Barney Drive/Fort Lincoln Drive North/Premium Driveway as an all-way stop due to the unnatural configuration of the T-intersection (i.e., the major movement is not a through movement, it is a left-turn movement);
 - Construct the Village at Washington Gateway middle (full access) site driveway on Fort Lincoln Drive as an all-way stop including a stamped-concrete, raised speed table in order to prevent pedestrian/vehicle conflicts that would occur as the result of the proposed pedestrian crossing between the Village at Washington Gateway and the Washington Gateway Shopping Center; and
 - Landscape the medians along Fort Lincoln Drive between 33rd Place and Fort Lincoln Drive North, along Commodore Joshua Barney Drive, and along Fort Lincoln Drive North, pending DDOT approval.
43. In order to identify the limits of the Army Corps Clean Water Act jurisdiction for the project, the U.S. Army Corps of Engineers conducted a field inspection of the Property and, by letter dated September 22, 2005, determined that there were "no

Z.C. ORDER NO. 06-08
Z.C. CASE NO. 06-08
PAGE 15

Waters of the United States, including jurisdictional wetlands" within the area of review. (Exhibit 22, Exhibit G.)

44. The RLA Revitalization Corporation ("RLARC") submitted a letter in support of the PUD, dated December 18, 2006. RLARC Board of Directors approved the project at a public meeting on November 15, 2006. (Exhibit 33.)

ANC REPORT

45. Based on the testimony of Timothy Thomas, ANC Commissioner of 5A08 and Vice Chair for ANC 5A, and by letter dated December 15, 2006, ANC 5A adopted a resolution to support the PUD on December 11, 2006 by a vote of 7-0. (Exhibit 32.) On October 25, 2006, at the annual community meeting hosted by ANC 5A12, the project was approved. (Tr. December 18, 2006, p. 135.)

PARTIES AND PERSONS IN SUPPORT

46. Outgoing Ward 5 Councilmember Vincent Orange testified in support of the project, adding that he has been working on it for quite some time. He looked forward to seeing both the proposed project and the retail development begin. (Tr. December 18, 2006, pp. 9-11.)
47. Incoming Ward 5 Councilmember Harry Thomas, Jr. testified in support of the project and praised the Applicant for enhancing a gateway to Washington, D.C. In addition, he commented that the development in this area will generate 650 new jobs, which the neighborhood needs. Furthermore, he believes that the housing will be second to none in the region and was impressed by both the Applicant's attention to detail and involvement with the community. (Tr. December 18, 2006, pp. 66-69.)

PARTIES AND PERSONS IN OPPOSITION

48. Robert E. Boone, President of the Anacostia Watershed Society, and James F. Connolly, Executive Director, both testified at the December 18, 2006 hearing that, although they are not against the project, they believe the proposed stormwater controls are obsolete technology. (Tr. December 18, 2006, pp. 155, 156.) They also would like to see a proposal that identifies temporary erosion and sediment control measures prior to the start of the project (Tr. p. 161.) and considers the cumulative effects of all the nearby projects on the Anacostia River. (Tr. December 18, 2006, p. 164.)
49. Leroy Morgan, a resident of Ward 5, testified during the December 18, 2006 hearing. Though not opposed to the project, Mr. Morgan expressed his concern

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 16

regarding global warming and the need to consider the environment as the project moves forward. (Tr. December 18, 2006, p. 166.)

50. David Hilmy, teacher, environmental educator, and LID administrator, submitted a letter (Exhibit 30) outlining environmental concerns and suggesting policy recommendation for development. Mr. Hilmy also testified at the December 18, 2006 hearing regarding wetlands, open space, low-impact development, and the affordability of the homes for teachers. (Tr. December 18, 2006, pp. 167-173.) In addition, he submitted into the record copies of an EPA pamphlet and US DOD low-impact development handbook. (Exhibits 39 and 40.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR §2400.2.)
2. Under the PUD process, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested relief from the front, rear, and side yard requirements and the request to allow more than one principal structure on a single lot can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. The development of this PUD project will advance the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that offer a variety of building types with more attractive and efficient overall planning and design than that achievable under matter-of-right development.
4. The Commission agrees with the written submissions and testimony of the Applicant’s representatives that the project will provide superior features that benefit the surrounding neighborhood to a greater extent than a matter-of-right project on the Subject Property would provide. The Commission finds that the mix of residential unit sizes and types, the large open recreational spaces, the pedestrian connections to the adjacent streets, the orientation of the residential units to front on adjacent public or private streets, the Community Green, and the use of landscaped retaining walls are appropriate project amenities and exemplify desirable features of urban design, architecture, and site planning.

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 17

5. The Commission determines that the provision of 30 workforce affordable units made available to DCPS employees is a project amenity. The Commission also concludes that the proposed community amenities package will provide appropriate benefits to members of the surrounding area and the District as a whole.
6. The Commission finds that the proposed low-impact development strategy proposed by the Applicant is an environmentally-sensitive approach to development on the Property and is a public benefit and project amenity. The Commission believes that the on- and off-site landscape elements of the project will enhance the attractiveness of the immediate area and are, therefore, deemed to be another amenity of the project.
7. The Commission agrees with the written submissions of the Applicant as well as the recommendations of OP that approval of the proposed project is not inconsistent with the Comprehensive Plan. The Commission finds that the project is consistent with and fosters numerous themes and elements of the Comprehensive Plan. Specifically, the Commission believes that the project furthers the themes of: stabilizing the Fort Lincoln neighborhood, respecting and improving the physical character of the neighborhood, providing for diversity and overall social responsibilities, and preserving and ensuring community input. The Commission also finds that the proposed PUD is also consistent with the Fort Lincoln Urban Renewal Area Plan.
8. The Commission agrees with the conclusions of the Applicant's traffic and parking expert and DDOT that the proposed project will not create adverse traffic or parking impacts on the surrounding community. The Commission believes that the proposed traffic calming measures along Fort Lincoln Drive and the raised pedestrian crosswalk to the retail shopping center are important features of the project.
9. In accordance with D.C. Official Code § 1-309.10(d)(2001), the Commission must give great weight to the issues and concerns of the affected ANC. ANC 5C adopted a resolution of support for the project on October 11, 2006. (Exhibit 32.)
10. Approval of the application will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
11. Notice of the public hearing was provided in accordance with the Zoning Regulations.

Z.C. ORDER NO. 06-08
Z.C. CASE NO. 06-08
PAGE 18

12. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1
13. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia ORDERS APPROVAL of the application for consolidated review of a planned unit development application for Parcel 173/145 in Square 4325. The approval of this PUD is subject to the following guidelines, conditions, and standards:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 22, 35, and 42 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. The Applicant shall make the following financial contributions as part of the PUD project:
 - Thurgood Marshall School/Playground Construction – The Applicant shall design and construct a playground facility at the Thurgood Marshall School located within the Fort Lincoln community. As a second phase to the pre-school playground, the Applicant shall work with the school administration to design a playground on the land area that is now occupied by an obsolete cycling facility. The cost of this playground is approximately \$50,000.
 - Scoreboard for the Baseball Field within Fort Lincoln – The Applicant shall purchase and install an electronic scoreboard for the baseball field located within the park at Fort Lincoln. The estimated cost is approximately \$40,000.
 - Landscaping Package along Fort Lincoln Drive – The Applicant shall contribute \$40,000 for installation and maintenance of plantings in accordance with a landscaping plan for the medians located along Fort Lincoln Drive and 31st Place, N.E. adjacent to the Village at Washington Gateway property. The Applicant shall maintain this landscaping for a period of three years from the date of its installation. The Applicant shall also provide for enhanced landscaping and maintenance of the area at the corner of Fort Lincoln Drive and 33rd Place.

Z.C. ORDER NO. 06-08
Z.C. CASE NO. 06-08
PAGE 19

- Trail Connection to the Adjacent Fort Lincoln Recreation Center – The Applicant shall create an environmentally-sensitive trail that connects the proposed development to the adjacent Fort Lincoln Recreation Center. The trail shall be sited and constructed of materials that will minimize disruption to the wooded area between the project and the recreation center. The cost of the trail is approximately \$12,000.
- Fort Lincoln Community Day – The Applicant shall continue its sponsorship of the Fort Lincoln Community Day for an additional two years. The Fort Lincoln Community Day brings together residents of the greater Fort Lincoln neighborhood to celebrate their community and meet their neighbors. The Applicant will provide food, entertainment, and publicity for this event. The cost of this component of the amenity package is \$10,000 (\$5,000 per year).
- Fort Lincoln Resident Participation in the National Senior Olympics – The Applicant shall continue to send eligible Fort Lincoln residents to the National Senior Olympics. The National Senior Olympics will be held in Louisville, KY this year. The cost of this contribution is expected to be \$2,000.
- Publication of Community Newsletter – The Applicant shall underwrite the publishing of a community newsletter prepared by ANC 5A. The newsletter will be published two times per year. The community newsletter will provide information to residents of the Fort Lincoln community on various matters that affect their community and their everyday lives. The cost of this contribution is expected to be \$4,000.
- Renovation and Upgrade of the Theodore Hagans Cultural Center – The Applicant shall contribute \$25,000 for the renovation of space within the Theodore Hagans Cultural Center located within the Fort Lincoln community. These funds will be used to purchase and install exercise equipment, patio furniture, and furnishings and Hi-Definition televisions for the cultural center.

All of the above-referenced contributions shall be funded and the capital projects shall be completed (except for the three-year maintenance period for landscaped medians along Fort Lincoln Drive) within one year prior to the issuance of the first certificate of occupancy at the Village at Washington Gateway.

3. The Applicant shall offer 30 residential units to qualified DCPS employees through an established NCRC/DCPS program. The sale of the affordable units

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 20

will be targeted to DCPS employees with annual household incomes (four-person family size) between \$54,180 and \$72,240 (60% to 80% of the Washington D.C. Metropolitan Area Median Income). The 30 workforce housing units offered will be the first and second floor units within the stacked ("2 over 2") townhouse condominium buildings. The gross floor area for this unit type is approximately 1,600 square feet and these houses contain three bedrooms and two and one-half bathrooms. Each unit has a one-car garage and a tandem driveway space.

4. Landscaping of the medians in Fort Lincoln Drive shall be provided in accordance with the plans marked as Exhibit No. 42 of the Record.
5. The Applicant shall make an initial capital contribution to the reserve fund for the Village at Washington Gateway Homeowners Association. This capital contribution will be \$250 per residential unit.
6. The Village at Washington Gateway Homeowners Association's Bylaws shall be required to include an Architectural Review Board. The Architectural Review Board shall regulate the external design and appearance of the PUD project in a manner so as to preserve and maintain the harmonious relationships among the structures on the Property and the Property's natural vegetation and topography.
7. All fences and embellishments located on private property between the entrance to the individual units and the adjacent public space shall be similar to the plans and materials filed as Exhibit 22 and Exhibit 35.
8. The Project shall include the low-impact development features specified in Exhibit 42, including the following features:
 - Two large underground storm filter facilities located at the downstream end of this project, which will have integral sediment traps and provide water filtration through multiple media filled cartridges.
 - Multiple bioretention facilities will be spread throughout the site, strategically situated where site grading, sufficient drainage, and planting space allow.
 - Water quantity control will be provided off-site in a proposed regional stormwater management pond. The regional stormwater management pond will provide peak reduction requirements to meet District environmental regulations for this site as well as adjoining properties.
9. Prior to the issuance of a building permit for the project, the Applicant shall enter into a Memorandum of Understanding with the Department of Small and Local

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 21

Business Development in substantial conformance with the Memorandum of Understanding submitted as Exhibit K of Exhibit 22.

10. Prior to the issuance of a building permit for the project, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services in substantial conformance with the First Source Agreement submitted as Exhibit K of Exhibit 22.
11. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
 - To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and
 - To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
12. The following roadway improvements shall be constructed by the Applicant by the issuance of the 100th Certificate of Occupancy for the PUD project.
 - Close the existing median break located along 33rd Place and construct median improvements to provide additional storage for the left-turn lane onto South Dakota Avenue from 33rd Place;
 - Extend the median on Fort Lincoln Drive North to better define travel paths for vehicles coming out of Premium Driveway and Commodore Joshua Barney Drive;
 - Install traffic calming devices such as speed humps, speed tables, and/or raised crosswalks along Fort Lincoln Drive, particularly in the vicinity of the proposed crosswalk between the Village at Washington Gateway and the Washington Gateway Shopping Center;
 - Construct Commodore Joshua Barney Drive/Fort Lincoln Drive North/Premium Driveway as an all-way stop due to the unnatural

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 22

configuration of the T-intersection (i.e., the major movement is not a through movement, it is a left-turn movement);

- Construct the Village at Washington Gateway westernmost (full access) site driveway on Fort Lincoln Drive as an all-way stop including a stamped-concrete, raised speed table in order to prevent pedestrian/vehicle conflicts that would occur as the result of the proposed pedestrian crossing between the Village at Washington Gateway and the Washington Gateway Shopping Center; and
 - Landscape the medians along Fort Lincoln Drive between 33rd Place and Fort Lincoln Drive North, along Commodore Joshua Barney Drive, and along Fort Lincoln, pending DDOT approval.
13. The PUD shall be valid for a period of two years from the effective date of Zoning Commission Order No. 06-08. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1; the filing of the building permit application will vest the Zoning Commission Order.
14. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of Department of Consumer and Regulatory Affairs ("DCRA"), and no building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of DCRA. Such covenant shall bind the Applicant and all successors in title to constrict and use the Property in accordance with this Order, or amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
15. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the

Z.C. ORDER NO. 06-08

Z.C. CASE NO. 06-08

PAGE 23

Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

For these reasons above, the Commission concludes that the Applicant has met the burden; it is thereby **ORDERED** that the application is **GRANTED**.

On February 12, 2007, the Zoning Commission **APPROVED** the application by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to approve; Gregory N. Jeffries not having participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on April 9, 2007, by a vote of 4-0-1 (Anthony J. Hood, John G. Parsons, Carol J. Mitten, and Michael G. Turnbull to adopt; Gregory N. Jeffries not having participated, not voting).

In accordance with the provisions of 11 DCMR 3028, this Order shall become final and effective upon publication in the *D.C. Register* on ~~NOV 23 2007~~.

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., February 24, 2008

Plan for Building Permit of SQUARE 4327 PARCEL 173/145

Scale: 1 inch = 200 feet

Recorded in A & T Book Page 3821-J

Receipt No. 25984

Furnished to: PWSP


Surveyor, D.C.

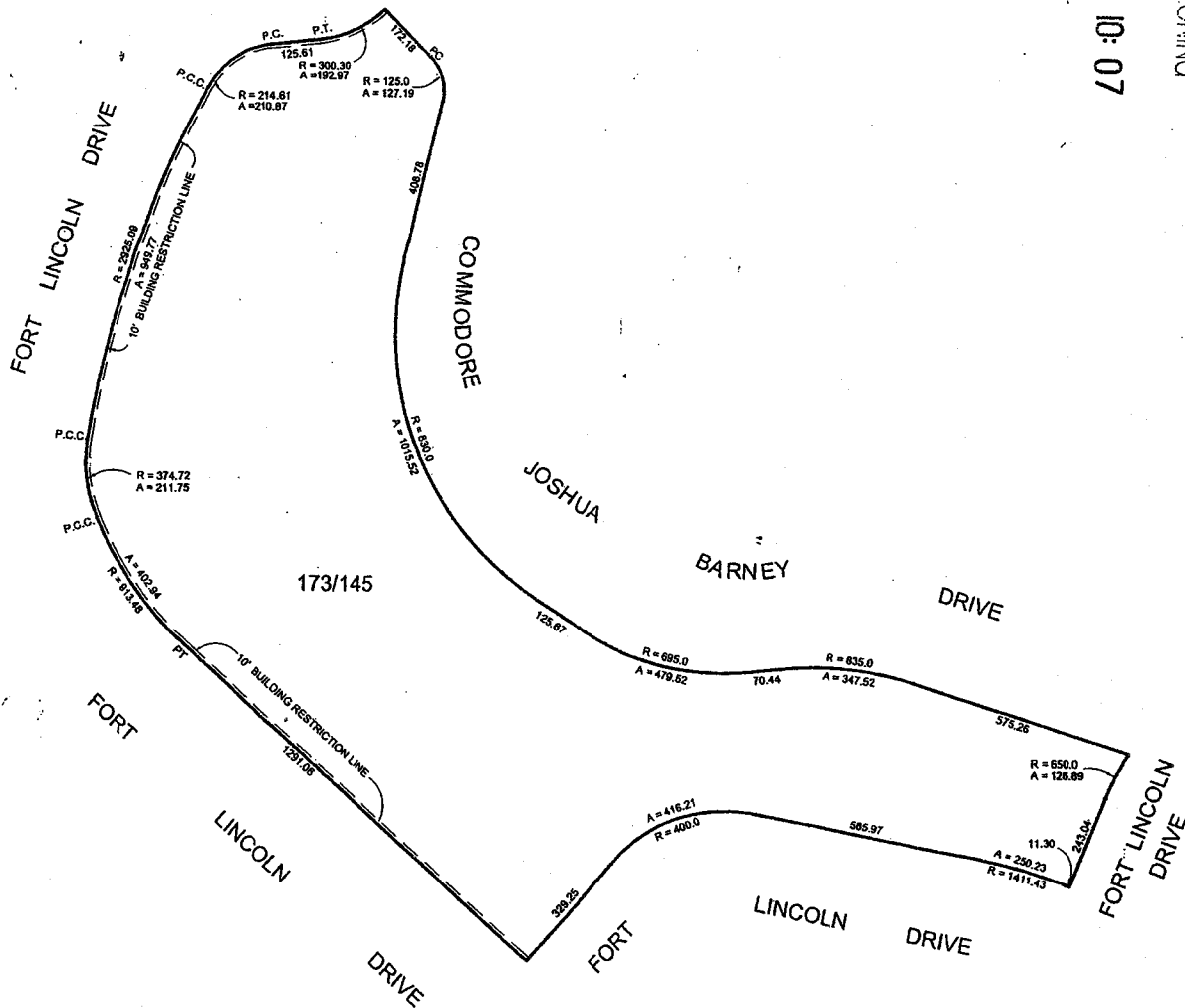
By: L.E.S.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown herein be, drawn, and dimensioned, and the improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an extent less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that the area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property to exceed of 5% for single-family dwellings or less, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date:

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



2008 MAR -8 AM 10:07

D.C. OFFICE OF ZONING

RECEIVED

Z.C. Case No. 06-08

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**Z.C. ORDER NO. 06-41****Z.C. Case No. 06-41****(Planned Unit Development and Related Map Amendment,
Camden Development, Inc.)****September 10, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on May 31, 2007, to consider an application for Camden Development, Inc. (Applicant) for consolidated review and approval of a planned unit development and related map amendment for Lot 111, Square 653, pursuant to Chapters 16 and 24 and § 102 of the District of Columbia Municipal Regulations ("DCMR") Title 11. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

At its special public meeting on July 9, 2007, the Commission deferred taking action, and instead rescheduled its consideration of the case for its Special Public Meeting of July 30, 2007. At that time, it took proposed action by a vote of 3-0-2 to approve the application and plans that were submitted into the record.

The Office of Zoning referred the case to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated July 26, 2007, found that the project would not be inconsistent with the Comprehensive Plan for the National Capital, nor have an adverse impact on any federal interests.

The Commission took final action to approve the application on September 10, 2007 by a vote of 3-0-2.

FINDINGS OF FACT

1. The property that is the subject of this application is located in Lot 111, Square 653 (the "Subject Property" or "Property"). According to tax records, the Property consists of approximately 41,019 square feet of land area and is known as 1345 South Capitol Street, SW. It is located in Southwest D.C. in Ward 6. (Exhibit 4, p. 1; Exhibit 48, p. 3.)
2. The Subject Property is owned by South Capitol Acquisition LLC through Camden Development, Inc. (Exhibit 4, p. 1.).

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 2

3. The Property was located in the C-2-C Zone District at the time it was purchased by the Applicant. The Office of Planning ("OP") subsequently filed a report on May 19, 2006, proposing to expand the boundaries of the Capital Gateway ("CG") Overlay District to the west side of South Capitol Street to include the Subject Property. The proposal, Z.C. Case No. 06-25, was set down for a public hearing on May 25, 2006. (Exhibit 25, p. 1.)
4. As a result of the Commission's decision to hold a hearing on Z.C. Case No. 06-25, the property became subject to the existing provisions of the Capital Gateway Overlay pursuant to 11 DCMR § 3202.5, which provides that a building permit filed for a property that the Commission is considering rezoning must comply with the most restrictive provisions of the current or proposed zone. At this same time, the Commission was considering text amendments that would require the Commission to review all new buildings located on the portions of South Capital Street included within the Overlay (Z.C. Case 05-10). Although these proposed provisions would not apply to the subject property until the text became effective, the Applicant filed its initial application for such a review in anticipation of the rule becoming final. The Applicant's initial application also included requests for variance and special exception relief. (Exhibit 4, p.1; Exhibit 20, p. 1.)
5. The Commission scheduled a public hearing for this application for February 1, 2007. The date was subsequently changed to February 22, 2007, to ensure that final action would have already been taken on Z.C. Case No. 05-10. (Exhibit 20, p. 1.) The text proposed in Z.C. Case No. 05-10 became final on February 16, 2007.
6. At the February 22, 2007, public hearing, John Epting of Pillsbury Winthrop Shaw Pittman, LLP presented the case on behalf of the Applicant. The Commission accepted Eric Liebmman of WDG Architecture as an expert in architecture. (Tr. February 22, 2007, p. 15.) At the close of the hearing, the Commission requested additional information from the Applicant, including a detailed roof plan or section, additional green design information or a LEED scorecard; ground floor elevations or perspectives to demonstrate level of activity from retail or amenity space; further analysis of the western façade; photographs of other buildings using similar materials; and clarification of vents in the courtyard.
7. The Applicant timely submitted its post-hearing submission on March 12, 2007.
8. At its April 9, 2007, meeting date, the Commission proposed that the Applicant re-submit the project without any changes as a planned unit development ("PUD") and related map amendment to the C-3-C Zone District. The Commission waived the requirement that the application be set down at a public meeting for a hearing and authorized the Office of Zoning to immediately provide thirty days notice of a hearing once a PUD and map amendment application were received. (Exhibit 43.)

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 3

9. On April 13, 2007, the Applicant submitted an application for a consolidated PUD and a related map amendment to the C-3-C Zone District. (Exhibit 42.)
10. A hearing was scheduled for the PUD and map amendment application for May 31, 2007. (Exhibit 43.)
11. At the public hearing on May 31, 2007, John Epting represented the Applicant and Eric Liebmann was again accepted as an expert in architecture.
12. At the close of the hearing, the Commission requested additional information regarding the distribution of affordable units and asked the Applicant to study the presentation of the western façade. (Tr. May 31, 2007, pp. 29, 30.)
13. The Applicant timely filed its post-hearing submission on June 14, 2007. (Exhibit 56.)
14. At its July 9, 2007, public meeting, the Commission postponed proposed action until July 30, 2007, and requested further information from the Applicant. The Applicant made new submissions to the Commission (Exhibit 58) and, at its July 30, 2007 Special Public Meeting, the Commission voted 3-0-2 to approve the application as proposed.

PROJECT SITE

15. According to tax records, the Property consists of 41,019 square feet of vacant land in Ward 6 at the northwest corner of the intersection of O Street, S.W. and South Capitol Street. According to a recent survey-to-mark, the site measures 41,092 square feet in size. The Applicant erred on the conservative side in its application and used the smaller lot area for the purposes of calculating lot occupancy and the floor area ratio of the project. The Applicant, however, intends to use the measured survey square footage for its building permit plans, thus somewhat reducing the actual lot occupancy and density of the Building. (Exhibit 4, Exhibit D; Exhibit 48, p. 3.)
16. The area to the west of the Property is located in the R-4 Zone District and consists of two-story rowhouses. Immediately to the east of South Capitol Street is the site of the new baseball stadium for the Washington Nationals. It is located in the CG/CR Zone District. North of the Property is a CG/C-2-C Zone District and south of the Property is a CG/R-5-E Zone District. (Exhibit 24, pp.1, 2, Exhibit D.)
17. The Property is located between the Navy Yard and the Waterfront-Southeastern University Metrorail stations. (Exhibit 4, p. 3.)
18. The Generalized Land Use Map includes the Subject Property in the Medium-Density Residential and Moderate-Density Commercial categories. (Exhibit 25, p. 4; Exhibit 48, p. 3.)

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 4

PROJECT DESCRIPTION

19. The Applicant seeks to construct a residential building with the possibility of ground floor retail on the Subject Property (the "Building"). (Exhibit 4, Exhibit A; Exhibit 48, p. 3.)
20. The actual measured height cannot be known at this time due to the work the District Department of Transportation ("DDOT") is performing on South Capitol Street. As a result, two feet of height flexibility is being requested and is granted. The Applicant will construct the Building to a measured height of between 110 and 112 feet along South Capitol Street, but it will gradually step down to 70 feet 8 inches along its western façade, closest to the row dwellings. The Building will have three levels of below-grade parking. (Exhibit 4, Exhibit F; Exhibit 24, Exhibit E; Exhibit 48, p. 3.)
21. The gross floor area of the entire project is approximately 268,628 square feet. There will be 265,998 square feet of residential use and approximately 2,988 square feet of potential retail use. The floor area ratio ("FAR") of the Building will not exceed 6.6 and its lot occupancy will not exceed 66%. (Exhibit 48, Exhibit C at A4.02.)
22. The Building will include approximately 263 parking spaces as well as one loading dock and one service delivery space. (Exhibit 48, Exhibit C at A4.02.)
23. The Applicant will dedicate 11,250 square feet of the gross floor area to affordable housing. The Applicant submitted floor plans on June 14, 2007, demonstrating that the affordable units will be distributed throughout the Building. The Applicant reserves the flexibility to vary the distribution as necessary, but commits that the affordable units will be distributed throughout the first five floors of the Building and that at least one of those units will be located on South Capitol Street.
24. The Building's façade presents a modern asymmetric frontage above South Capitol Street, which honors, in its distribution of architectural elements, the historic Washington division of building base, middle, and top. The single level building base, which encloses residential amenity spaces and potential retail space at the southwest corner, maintains the designated setback line, and is sheathed in a combination of oversized masonry units, glass, and metal, with cast stone accents. The setback line is held above by the full height entry bay, as well as projecting bays and balconies at floors three through ten. The top floor and the second floor are set back to provide clarity, rhythm, and hierarchy to overall façade composition. The building enclosures at these planes consist of a variety of sizes and colors of masonry units, in concert with glass, metal, and cast stone.
25. The Applicant seeks flexibility from the following sections of the Zoning Regulations:
 - Section 411: to allow four roof structures, one of which is not uniform in height;

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 5

- Section 776: to allow the northern court, which is smaller than permitted under the Zoning Regulations;
 - Section 774: to allow a 15-foot rear yard rather than a 23-foot, 7 inches rear yard that would otherwise be required;
 - Section 1605: to allow 59% of the façade to meet the setback line rather than the required 60% and to allow balconies to project into the fifteen foot required setback area;
 - Pending Section 2603: to allow 11,250 square feet of the project to be dedicated to affordable units. (Exhibit 48, pp. 5, 6.)
26. The Building will incorporate a number of low-impact development features that will result in the attainment of at least 16 LEED-NC v2.2 points for the project. These points may be achieved through the following project features: (Exhibit 34, Exhibit B; Exhibit 48, Exhibit D.)
- Reduction of pollution from construction activities by controlling soil erosion, waterway sedimentation, and airborne dust generation;
 - Avoidance of development of an inappropriate Greenfield site and reduction of the environmental impact from the location of the Building on the site;
 - Development of the density of the residential use in an urban area with existing infrastructure and not disturbing existing Greenfield or habitats and natural resources;
 - Reduction of pollution and land development impacts from automobile use by taking advantage of alternative transportation by locating the project in close proximity to public transportation, by providing bicycle storage to encourage bicycle use by tenants and visitors, and by providing parking for fuel efficient single occupancy vehicles to encourage their use as well;
 - Limitation of the disruption of natural hydrology by consideration of impervious coverage, increasing on-site infiltration, and managing storm water runoff;
 - Reduction of water pollution by increasing on-site filtration, eliminating sources of contaminants, and removing pollutants from storm water runoff;
 - Reduction of heat island effect (thermal gradient differences between developed and undeveloped areas) to minimize impact on microclimate and human and

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 6

wildlife habitats through a combination of vegetation at the roof, reflective roof, and at-grade landscape features;

- Limitations on the use of potable water for landscape irrigation, enhancing water efficiency;
- Reduction of the burden on municipal water supply and waste water system by reducing water use;
- Use of building components to prescribed levels of energy efficiency performance in the design of the building envelope and building systems;
- Use of at least 10%, and possibly 20%, recycled content materials, thereby reducing the impacts resulting from extraction and processing of virgin resources;
- Use of at least 10%, and possibly 20%, regional extracted, processed, and manufactured materials and resources, thereby reducing the impacts resulting from extraction and processing of virgin resources;
- Reduction in the quantity of indoor air contaminants by limiting the amount of Volatile Organic Compounds ("VOCs") from adhesives & sealants, carpet systems, and possibly paints and coatings that are odorous, irritating, and/or harmful to the comfort and well being of installers and occupants;
- Minimization of the exposure of building occupants to potentially hazardous indoor particulates and chemical pollutants by source control;
- Provision of a high level of lighting system and thermal comfort control by individual occupants or by specific groups in multi-occupant spaces while still promoting the productivity, comfort, and well-being of building occupants;
- Provision for the building occupants of a connection between indoor spaces and the outdoors through the introduction of daylight and views into the regularly-occupied areas of the Building; and
- Participation by LEED Accredited Professional on Architect's staff.

CAPITAL GATEWAY OVERLAY STANDARDS

27. Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet, with the exception of buildings within Squares 649 and 651: The Building is set back from the property line 15 feet. Six tiers of balconies composed of an aluminum rail system with wire mesh project 3'-5" beyond

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 7

the setback line and the Applicant is requesting flexibility to permit this encroachment into the setback area. (Exhibit 4; Exhibit 24; Exhibit 48.) (See Finding of Fact No. 25).

28. For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line: Approximately 16,752 feet, or 59.43%, of the South Capitol Street façade meets or exceeds the setback line, which meets the intent of the Zoning Regulations. Id. (See Finding of Fact No. 25).
29. Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one step back from the building line along South Capitol Street, with the exception of buildings within Square 649: The Building is no taller than 110 feet. Id.
30. No private driveway may be constructed or used from South Capitol to any parking or loading berth areas in or adjacent to a building or structure constructed after the effective date of this section: Access to and from the Building is via O Street. Id.

PUBLIC BENEFITS AND PROJECT AMENITIES

31. The Project will provide the following public benefits and project amenities:
 - Housing and affordable housing: This project will create approximately 276 new residential units in Southwest D.C. In addition, approximately 11,250 square feet of residential space will be dedicated to workforce affordable housing units.
 - Urban design and architecture: The proposed project exhibits all of the characteristics of exemplary urban design and architecture. The project has been thoughtfully designed to interact with the surrounding neighborhood and its mix of uses, including the rowhouses and the baseball stadium. The design of the ground floor engages pedestrians and activates the streetscape, adding to what will be a lively section of the city. The Applicant added additional articulation to the western façade to enhance the view of the Building from the adjacent rowhouses. The height, massing, and articulation of the structure's facade will emphasize the monumental character of South Capitol Street, which is consistent with the objectives of the Capital Gateway Overlay District.
 - Site planning: The proposed project has been designed to respect the monumental boulevard of South Capitol Street by concentrating its greatest height along South Capitol Street. The Applicant is able to successfully balance competing neighboring uses by stepping the height of the Building down as it extends toward the rowhouses, massing the Building on South Capitol Street, and having the majority of the western portion of the property lined with landscaped courtyards.
 - Effective and safe vehicular and pedestrian traffic: The project will provide vehicular access to parking from O Street, pursuant to the Capital Gateway

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 8

Overlay regulations. Access to parking from O Street will avoid conflicts with pedestrians along South Capital as the area continues to grow and become a popular pedestrian destination.

- Provision of parking for specific neighbors and local community: Upon completion of the Building, current residents of 2, 4, 6, and 8 O Street, S.W., will be given an opportunity to lease a parking space in the Building at 50% of the market rate for a 20-year period, and within six months of stabilization of the property, defined as being 94% occupied, the Applicant will make available any surplus parking spaces to the community at market rate.
- Uses of Special Value: The addition of approximately 276 new residential units will result in the generation of significant additional tax revenues for the District. Because the project will be built on a largely vacant site, all of these taxes represent new revenues for the District.
- Comprehensive Plan: The PUD is not inconsistent with the Comprehensive Plan.

(Exhibit 48, pp. 8, 9).

COMPREHENSIVE PLAN

32. The PUD is not inconsistent with the Comprehensive Plan. It is consistent with several area elements delineated for the South Capitol Street and Buzzard Point areas:
 - South Capitol Street Urban Boulevard: The project highlights the grandeur of South Capitol Street as it is set back from the street and the Building's greatest height is along the major boulevard. The Capitol Gateway Overlay was established to preserve the importance of South Capitol Street and this project is consistent with the intent of the Overlay.
 - Ballpark Entertainment District: The Comprehensive Plan calls for higher density residential uses in the vicinity of the ballpark. This residential high-rise Building is consistent with the District's effort to revive this area.
 - South Capitol Neighborhood Buffers: The bulk and height of the Building scale down as it extends toward the adjacent rowhouses. The Building serves as an appropriate buffer between the stadium and the residential uses to the west.
33. The Generalized Land Use Map designates this site for moderate-density commercial and medium-density residential uses, which is consistent with a C-3-C Zoning Designation.

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 9

GOVERNMENT REPORTS

34. In its February 12, 2007, report, OP noted that "[t]he proposed development will help establish South Capitol Street as a monumental civic boulevard. The 110 foot height is appropriate for a major avenue in the city and is consistent with recent South Capitol Street corridor planning studies. The Building will help frame the street by matching the height of the baseball stadium on the east side of South Capitol. Redevelopment of the previously industrial site with a more aesthetically pleasing building will enhance this major city street and increase pedestrian movement in the area. The view north towards the Capitol or south towards the Anacostia River will be improved." (Exhibit 25, p.10.)
35. OP submitted a subsequent report on May 21, 2007, in support of the PUD application. OP recommended approval of the PUD and related map amendment and opined that it was not inconsistent with the Comprehensive Plan. It also determined that the application will further the objectives of the Capital Gateway Overlay by helping to recreate South Capitol Street as a monumental civic boulevard with an active pedestrian streetscape.
36. At the May 31, 2007 hearing, OP stood on the record but reiterated its strong support for the PUD and related map amendment applications.
37. DDOT filed a report on February 22, 2007, and stated that it had no objection to the project provided the Applicant coordinate with DDOT to ensure that their project plans reflect DDOT's roadway improvement plans and other streetscape plans for the area. (Exhibit 32, p. 1.) DDOT did not submit a report for the May hearing.

ADVISORY NEIGHBORHOOD COMMISSION REPORT

38. Advisory Neighborhood Commission ("ANC") 6D submitted letters into the record on February 22, 2007 and May 30, 2007 stating that it believes the project meets the criteria of height massing and setback from South Capitol Street imposed by the Capital Gateway Overlay, and provides a suitable step-down and courtyard space on the rear side of the Building to mitigate the height of the Building on South Capitol Street. (Exhibit 29, p. 1.) No representative from the ANC was present at the May 31, 2007 hearing to testify in support.
39. The ANC's support was contingent on the following conditions:
- The Applicant will abide by the Development and Construction Management Plan as submitted into the record for this case. This Development and Construction Management Plan includes a pest control program to ensure that no increase in pest activity occurs during the period of construction activity on the Property.

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 10

- The project will reserve 11,250 square feet of gross floor area as affordable units to households having an income not exceeding 80% of Area Median Income for the Washington, D.C. Metropolitan Statistical Area (adjusted for family size). To the extent that minor modifications are needed in the execution of this program to conform to District or Federal housing programs, the Applicant will work with the Department of Housing and Community Development ("DHCD") to make such changes comply with the same.
- Within six months of stabilization of the property as defined as being 94% occupied, the Applicant shall contact the ANC Single Member District representative to make any surplus spaces in the garage available to the community at market-rate.
- Current residents of 2, 4, 6, and 8 O Street, S.W. shall be provided the opportunity to lease a parking space in the parking garage of the Building at 50% of the market rate for a period of 25 years upon completion of the residential Building.
- Not less than 30 days before securing construction permits for this project, the Applicant shall provide the ANC Single Member District representative an anticipated schedule of construction, including use of heavy machinery, such as pile drivers.
- The Applicant shall coordinate with the adjacent property owners regarding the provision of a decorative fence identical to that lining the Applicant's property line from the Applicant's property and continuing north to N Street, at the Applicant's expense.
- The Applicant will give preference to existing residents living within the jurisdiction of ANC 6D when reviewing applications for tenancy. The Applicant will present its program implementing this preference to the ANC within 18 months of the Commission's issuance of an order approving the proposed Building.

PARTIES AND PERSONS IN OPPOSITION

40. On February 1, 2007 and May 11, 2007, Karl Fraser submitted into the record a request for party status. He stated he would appear as an opponent of the application unless he was provided parking in the Building. (Exhibit 23, pp. 1, 2.)
41. Fraser failed to appear at the public hearing held on February 22, 2007, as well as the hearing held on May 31, 2007, thus, the Zoning Commission denied his request for party status.

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 11

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits, 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)
2. Under the PUD process, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. The Commission concludes that the requested flexibility from the roof structure, courtyard, inclusionary zoning, rear yard, and Capital Gateway requirements, as set forth in Finding of Fact No. 25, can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
4. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
5. The Commission agrees with the testimony of the project architect and the representatives of the Applicant and believes that this project does in fact provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Subject Property would provide. The Commission finds that the amount of affordable housing provided in this project is a significant amenity that will be available for “workforce” DC residents. The Commission also finds that the design and site planning of the project effectively integrates the property with the surrounding neighborhood by concentrating the Building’s height along South Capitol Street and stepping it down as it approaches the rowhouses to the west.
6. Approval of the PUD and the PUD-related Zoning Map amendment is not inconsistent with the Comprehensive Plan, which calls for medium- density residential and moderate-density commercial uses on this site.
7. The Commission notes that the Zoning Regulations treat a PUD-related Zoning Map amendment differently from other types of rezoning. PUD-related Zoning Map amendments do not become effective until after the filing of a covenant that binds the current and future owners to use the Property only as permitted and conditioned by the

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 12

Commission. If the PUD project is not constructed within the time and in the manner enumerated by the Zoning Regulations (11 DCMR §§ 2408.8 and 2408.9), the Zoning Map amendment expires and the zoning reverts to the pre-existing designation, pursuant to 11 DCMR § 2400.7. A PUD-related Zoning Map amendment is a temporary change to existing zoning that does not begin until a PUD covenant is recorded, ceases if the PUD is not built, and ends once the PUD use terminates. The Commission might grant PUD-related Zoning Map amendments in circumstances where it might reject permanent rezoning. In this case, the Commission concludes that the proposed rezoning of the Property to the C-3-C District is appropriate given the superior features of the PUD project.

8. The Commission finds that the Development and Construction Management Plan submitted by the Applicant will effectively mitigate any adverse impacts that construction activity on the Property will have on the surrounding community.
9. In accordance with D.C. Official Code § 1-309.10(d)(2001), the Commission must give great weight to the issues and concerns of the affected ANC. ANC 5C did not submit a formal resolution in this case.
10. Approval of the application will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.
11. Notice of the public hearing was provided in accordance with the Zoning Regulations.
12. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review of a planned unit development and Zoning Map amendment application from the CG/C-2-C Zone District to the CG/C-3-C Zone District for Lot 111 in Square 653. The approval of this PUD and Zoning Map amendment is subject to the following guidelines, conditions, and standards:

1. The project shall be developed in accordance with the plans and materials submitted by the Applicant, marked as Exhibits 4, 24, 26, 35, 42, 48, 56, and 58 of the record, and with the testimony at the hearing, as modified by the guidelines, conditions, and standards of this Order, including the proposal outlined above to implement green design features and DDOT's plans for South Capitol Street. In order to develop the project in accordance with the plans submitted, the Applicant is granted the flexibility from the strict

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 13

application of the Zoning Regulations as requested and set forth in Finding of Fact No. 25.

2. The Applicant shall abide by the Development and Construction Management Plan as submitted into the record for this case. This Development and Construction Management Plan includes a pest control program to ensure that no increase in pest activity occurs during the period of construction activity on the Property.
3. The project shall reserve 11,250 square feet of gross floor area as affordable units to households having an income not exceeding 80% of Area Median Income for the Washington, D.C. Metropolitan Statistical Area (adjusted for family size). To the extent that minor modifications are needed in the execution of this program to conform to District or Federal housing programs, the Applicant will work with the Department of Housing and Community Development ("DHCD") to make such changes comply with the same. The affordable units shall be located on the first five floors of the Building and the Applicant shall have flexibility in determining the precise location of the units; however, the units must be distributed throughout the first five floors and at least one unit must be located on South Capitol Street.
4. Within six months of stabilization of the property, defined as being 94% occupied, the Applicant shall contact the ANC Single Member District representative to make any surplus spaces in the garage available to the community at market-rate.
5. Upon completion of the residential Building, current residents of 2, 4, 6, and 8 O Street, S.W. shall be provided the opportunity to lease a parking space in the parking garage of the Building at 50% of the market rate for a period of 20 years.
6. Not less than 30 days before securing construction permits for this project, the Applicant shall provide the ANC Single Member District representative with an anticipated schedule of construction, including use of heavy machinery, such as pile drivers.
7. The Applicant shall coordinate with the adjacent property owners regarding the provision of a decorative fence identical to that lining the Applicant's property line from the Applicant's property and continuing north to N Street, at the Applicant's expense.
8. The Applicant shall give preference to existing residents living within the jurisdiction of ANC 6D when reviewing applications for tenancy. The Applicant shall present its program implementing this preference to the ANC within 18 months of the Commission's issuance of this Order approving the proposed Building.
9. The Applicant shall have flexibility with the design of the Building in the following areas:

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 14

- To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, affordable units (provided they are distributed throughout the first five floors and at least one unit is located along South Capitol Street), and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
 - To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials;
 - To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings, and trim or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit; and
 - To alter the landscaping plans and height of the Building to make them consistent with DDOT's streetscape plans for South Capitol Street.
10. The Applicant shall coordinate with DDOT to ensure that the project plans reflect DDOT's roadway improvement plans and other streetscape plans for the area. The plans submitted into the record during the course of the case may be modified to comport with DDOT's plans for the South Capitol streetscape.
 11. The Applicant shall have the flexibility to provide retail use in the ground floor of the Building.
 12. A parapet of three feet, six inches shall be permitted around the perimeter of the roof.
 13. All applications for building permits authorized by this Order may be processed in accordance with the Zoning Regulations in effect on the date this Order is published in the *D.C. Register*.
 14. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit for the construction of the residential Building.
 15. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA and no building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of DCRA. Such covenant shall bind the Applicant and all successors in title to construct and use the Property in accordance with this Order, or

Z.C. ORDER NO. 06-41

Z.C. CASE NO. 06-41

PAGE 15

amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant in the records of the Office of Zoning.

16. The change of zoning from the CG/C-2-C Zone District to the CG/C-3-C Zone District for the Property shall be effective upon the recordation of the covenant discussed in Condition No. 21, pursuant to 11 DCMR § 3028.9.
17. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act") the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

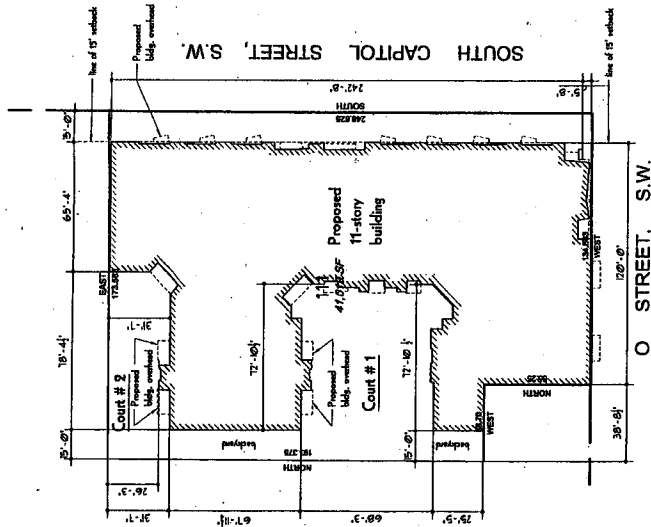
For the reasons stated above, the Commission concludes that the Applicant has met its burden of proof, and it is hereby **ORDERED** that the application be **GRANTED**.

On July 30, 2007, the Zoning Commission **APPROVED** the application by a vote of 3-0-2 (John G. Parsons, Michael G. Turnbull, and Anthony J. Hood to approve; Carol J. Mitten and Gregory N. Jeffries not having participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on September 10, 2007 by a vote of 3-0-2 (Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to adopt; Carol J. Mitten and Gregory N. Jeffries not having participated, not voting).

In accordance with the provisions of 11 DCMR 3028, this Order shall become final and effective upon publication in the *D.C. Register* on **NOV 23 2007**.

SUBDIVISION SQUARE 653



OFFICE OF TAX AND REVENUE

I certify that the following statements relating to this subdivision are correct.

1. Ownership agrees with our records: 8/1/08 2008

2. Final estate taxes are paid to: 8/1/08 2008

3. There are no unpaid assessments: 8/1/08 2008

Chief Assessor, Assessment Division

I acknowledge that it is my duty to see that this is not a fee certificate as provided by D.C. Code Section 42-406.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

08.20 2008

I certify that this subdivision complies with all applicable provisions of DCMR11, Zoning Regulation of the District of Columbia.

Zoning District: C-2-C

Building Administrator

8/15 2008

Surveyor, D.C.

OFFICE OF THE SURVEYOR

I certify that this plat is correct and is hereby recorded.

Surveyor, D.C.

This subdivision is not a fee certificate as provided in the District of Columbia Code, Title 42, Chapter 40, Section 406. It is a fee certificate as provided in the District of Columbia Code, Title 42, Chapter 40, Section 406. It is a fee certificate as provided in the District of Columbia Code, Title 42, Chapter 40, Section 406.

WITNESSES

Witness 1

Witness 2

OWNERS

Owner 1

Owner 2

DEVELOPER

Developer

RECORDING OFFICE

Recording Office

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

RECORDING SIGNATURE

Recording Signature

RECORDING DATE

Recording Date

RECORDING PAGE

Recording Page

RECORDING SCALE

Recording Scale

RECORDING METHOD

Recording Method

RECORDING NOTES

Recording Notes

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA**Z.C. ORDER NO. 06-46****Z.C. Case No. 06-46****Capitol Gateway Overlay Review****WMATA, MR N Street S.E, LLC, and MR Ballpark 5 LLC**

Pursuant to notice, the Zoning Commission of the District of Columbia (the "Commission") held a public hearing on January 11, 2007 to consider an application for property owned by the Washington Metropolitan Area Transit Authority ("WMATA"), MR N Street Southeast LLC, and MR Ballpark 5 LLC for review and approval of a new development pursuant to the Capitol Gateway Overlay District provisions ("CG Overlay District Review") set forth in § 1604 of the D.C. Zoning Regulations (the "Zoning Regulations"), Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The property that is the subject of this application consists of Lots 3, 98-118, 144-147, 161, 162, 167, 815, and 824 in Square 701 and portions of the public alley in Square 701 closed on an emergency basis pursuant to Closing of Portions of a Public Alley System on the West Side of Square 701, S.O. 06-3392, Emergency Act of 2006, effective December 28, 2006 (D.C. Act 16-657) (the "Emergency Alley Closing Legislation"). MR N Street Southeast LLC and MR Ballpark 5 LLC, affiliates of Monument Realty LLC, are collectively referred to as the "Applicants."

In addition, the Applicants sought approval, pursuant to § 1604.9, for: (1) a special exception from the setback requirements for roof structures in the CR District; (2) a variance from the private residential recreation space requirements of the CR District; and (3) a variance from the loading requirements of the CR District. On November 10, 2006, the Commission issued its Notice of Proposed Rulemaking in Z.C. Case No. 05-10 for text and map amendments to the provisions for the Capitol Gateway Overlay District. In response to the Commission's Notice of Proposed Rulemaking in Z.C. Case No. 05-10, the Applicants, pursuant to § 1604.9, also requested: (1) a variance from the step back requirements of proposed § 1607.2; (2) a variance from the ground floor preferred uses requirements of proposed § 1607.3; (3) a variance from the requirements of proposed § 1607.4 for street frontage along Half Street, S.E.; and (4) a variance from the minimum floor-to-ceiling clear height requirements of § 1607.5. The Commission considered the application pursuant to Chapter 30 of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 2

FINDINGS OF FACT**Application, Parties, and Hearing**

1. On November 2, 2006, the Applicants filed an application for review and approval of new development pursuant to the CG Overlay District Review for property located in the Southeast quadrant of Washington, D.C. and generally bounded by M Street on the north, Half Street on the west, N Street on the south, and Cushing Place on the east. Consisting of approximately 102,494 square feet of land, the site includes Lots 3, 98-118, 144-147, 161, 162, 167, 815 and 824 in Square 701 and portions of the public alley in Square 701 closed pursuant to the Emergency Alley Closing Legislation (the "Subject Property"). The site is presently zoned CG/CR. Pursuant to § 1604 of the Zoning Regulations, the Applicants are seeking review and approval of the proposed development under the CG Overlay District Review, a special exception from the setback requirements for roof structures in the CR District, and variances from the private residential recreation space, loading, proposed step back, proposed ground floor preferred uses, proposed street frontage along Half Street, and proposed minimum floor-to-ceiling clear height provisions of the Zoning Regulations.
2. The purposes of the CG Overlay District that are relevant to the proposed development include:
 - a. Assuring development of the area with a mixture of residential and commercial uses, and a suitable height, bulk, and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area;
 - b. Encouraging a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel or inn uses;
 - c. Requiring suitable ground-level retail and service uses and adequate sidewalk width along M Street, S.E., near the Navy Yard Metrorail Station; and
 - d. Providing for the development of Half Street, S.E. as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street façade to ensure adequate light and air and a pedestrian scale.
3. After proper notice, the Commission held a hearing on the application on January 11, 2007. Parties to the case included the Applicants and Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the property is located.
4. At its duly noticed meeting held on January 8, 2007, ANC 6D voted 4-0-2 in support of the application for CG Overlay District Review. In its January 9, 2007 report, the ANC

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 3

found that the project meets the architectural criteria set forth in the CG Overlay with respect to height, mass, and setbacks and is consistent with the objective of creating a lively and welcoming stadium district.

5. Expert witnesses appearing on behalf of the Applicants included: Robert Sponseller of Shalom Baranes Associates, Jordan Goldstein of Gensler, John Fitch of Landscape Architecture Bureau, Steven Sher of Holland & Knight, and Daniel Van Pelt of Wells and Associates.
6. Uwe Brandes of the Anacostia Waterfront Commission ("AWC") appeared before the Commission as a person in support of the application. Mr. Brandes expressed AWC's strong and enthusiastic support for the application. Mr. Brandes noted that there are several new buildings along M Street and within the Capitol Gateway (CG) Overlay, but none have the attention to detail that the Applicants present in their application. Mr. Brandes pointed out that the building design celebrates pedestrian movement along Half Street. Mr. Brandes also stated that the D.C. Sports and Entertainment Commission is responsible for designing a circulation plan for baseball game days.
7. At the conclusion of the hearing, the Commission directed the Applicants to submit the following: (1) revised articulation of how the Applicants meet their burden of proof for special exception and variance relief; (2) an interim plan for Half Street prior to construction of the ultimate streetscape plan and a description of the traffic plan for game days; (3) an explanation of the design and operation of Monument Place and the intersection of Half Street and Monument Place; (4) an evaluation of the roof structure located on the hotel roof; (5) a description and study of the location of the elevator for the parking garage to street level; (6) a confirmation as to whether the Applicants will provide showers for the office tenants in response the District Department of Transportation ("DDOT") Report; (7) a description of sustainable building design features based on LEED certification categories likely to be incorporated in to the proposed development; (8) the likelihood of moving the hotel lobby to the first floor; (9) status report regarding DDOT approval of proposed street lighting; and (10) an explanation of signage at the northeastern corner of the site and on the roof of the South Building. By submission dated January 25, 2007, the Applicants addressed the areas identified by the Commission as requiring supplemental information.
8. At its public meeting on February 12, 2007, the Commission took proposed and final action, by a vote of 5-0-0, to approve the plans submitted into the record and all but one of the relief requests. The Commission denied that portion of the request for relief from the requirements of proposed § 1607.2 to permit a four-foot setback, instead of the required 20-foot setback, from the building line along Half Street.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 4

Project Overview

9. The Applicants propose to develop the Subject Property with a 762,680-square-foot mixed-use development consisting of residential, office, hotel, and retail uses. The proposed development includes two buildings on a single record lot: (1) the north office building with ground floor retail (the "North Building") and (2) the south residential building containing two wings of residential use, a hotel and ground floor retail (the "South Building"). The two buildings will be separated by a private driveway. For floor area ratio ("FAR") purposes, the proposed development will consist of approximately 105,560 square feet of hotel use, 51,010 square feet of retail use, 320,100 square feet of residential use, and 277,600 square feet of office use.
10. Pursuant to § 1602.1 of the Zoning Regulations, the Applicants will transfer approximately 49,680 square feet of floor area from Lots 33, 37-39, 43, 45, 46, 802, 803, 841, 850, and 868 in Square 700 to the Subject Property in order to achieve density of approximately 7.44 floor area ratio ("FAR") and a building height of 110 feet. The Applicants have also devoted street frontage at the ground floor, exclusive of the entrance to the Navy Yard Metro Station and building entrances, to preferred retail use along M Street and Half Street.
11. The proposed development will provide 264 parking spaces for the residential use and 279 parking spaces for the hotel, retail, and office uses. The proposed development will also provide one 55-foot loading berth, six 30-foot loading berths, and two 20-foot service/delivery loading spaces.

Description of the Surrounding Area

12. The proposed development is surrounded by a variety of uses. Immediately across N Street to the south will be one of the two parking garages serving the baseball stadium, which is currently under construction. To the north of the site, across M Street, a new office building is nearing completion. To the northeast, a proposed development consisting of a new twelve-story office building with ground floor retail has been approved by the Commission under the CG Overlay District Review. A development consisting of a mixed-use office and residential building with ground floor retail is being considered for the eastern portion of Square 701. The WMATA bus garage is west of the Subject Property across Half Street.

Renovation and Expansion of the Navy Yard Metrorail Station

13. One of the major components of the proposed development is the renovation and expansion of the Navy Yard Metrorail Station located at the northwestern corner of the site. The Navy Yard Metrorail Station will be updated with a more welcoming entrance that includes additional gates and fare-card machines at street level. The Applicants

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 5

testified that the renovation and expansion of the Navy Yard Metrorail Station must be complete by April 2008, in order to accommodate Opening Day for the Washington Nationals at the baseball stadium. The renovation of the Navy Yard Metrorail Station will enhance the pedestrian experience around the baseball stadium and within the proposed development. The renovation and expansion also provide an alternative means of transportation for baseball patrons and District residents. As the Applicants stated in their written materials and testimony at the public hearing, the Navy Yard Metrorail Station limits the amount of gross floor area the Applicants can devote to preferred uses at the ground floor level, which also affects the amount of street frontage for preferred uses along Half and M Streets.

Ground Floor Preferred Uses

14. In complying with the provisions of the CG Overlay District, the Applicants have incorporated preferred uses at the ground floor level throughout the proposed development. The Applicants have devoted 56.3%, or 51,010 square feet, of the gross floor area at the ground floor to retail and preferred uses. The Applicant's allocation of preferred uses at the ground floor is limited by the renovation and expansion of the Navy Yard Metrorail Station and the building entrances that access uses that begin at the second floor. The Navy Yard Metrorail Station and the extension from Cushing Place to N Street, required as part of the alley closings that unified the site, account for 11,400 square feet of the gross floor area at the ground floor.
15. The Applicants have provided minimum floor-to-ceiling clear heights for all of the ground floor preferred uses except in the spaces labeled as Retail 7, Retail 5a, and back of house spaces on Sheet A13 of the Architectural Plans and Elevations, dated January 25, 2007 (the "Architectural Plans and Elevations"), which are identified as "Exhibit A" of the Applicants' post-hearing filing. The Applicants will provide a minimum floor-to-ceiling height in Retail 7 of 13 feet, to accommodate the slope in the site that occurs at Retail 7. The Applicants will provide a minimum floor-to-ceiling clear height of 11 feet, 6 inches at the ground floor for Retail 5a, in order to accommodate the placement of the main hotel lobby and bar on the second floor. The Applicants propose to construct in Retail 5a an exterior, covered stair connecting the second floor directly to the street in order to create a lively, attractive atmosphere for hotel guests and other patrons. The location of the hotel lobby and bar above Retail 5a requires that the hotel lobby and bar have clear ceiling heights taller than the typical clear ceiling height of 9 feet, 8 inches which are found on the second floor of the South Building. The Applicants also will provide a minimum floor-to-ceiling clear height of 11 feet for back of house space that contains large mechanical equipment (such as kitchen exhausts and other equipment associated with restaurant use) and for back of house space located below residential space.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 6

Requested Areas of Relief: Special Exceptions**Setback Requirements for Roof Structures in the CR District**

16. The Applicants requested special exception relief pursuant to § 411 of the Zoning Regulations to permit roof structures facing the interior courts of the building that do not meet the setback requirements for roof structures in the CR District. The Applicants will locate three mechanical penthouses on the roof of the residential building. All setback requirements from Half, M, and N Streets, S.E. will be met.
17. The Applicant's land use expert, Steven Sher, testified that Applicants' compliance with the roof structure regulations is impractical because of the size of the building lot, the "J" shaped footprint of the South Building, the required setbacks and step backs along Half Street, and the need for three separate cores to accommodate the hotel use and the residential uses located on two separate wings of the South Building. Mr. Sher explained that, if the Applicants were to meet all the setback requirements of the roof structure regulations, the Applicants would not have sufficient room to accommodate all necessary rooftop functions, such as housing mechanical equipment, nor would the Applicants meet the step back requirements of the proposed CG Overlay provisions relating to Half Street, S.E.
18. Mr. Sher stated that the proposed roof structures will not impair the intent and purpose of § 400.7 of the Zoning Regulations and will not adversely affect the light and air of adjacent buildings. The deviations from the Zoning Regulations will now only be located along the walls of the interior court of the South. The interior court will be surrounded by the proposed development and, thus, not providing a setback for exterior walls facing the interior courts will not adversely affect the light and air of the adjacent buildings.

Step Back Requirements on Half Street, S.E.

19. As of the date of this Order, there are no specified standards for review for a special exception for step backs that deviate from the step back requirements of proposed § 1607.2, other than compliance with § 3104. The Applicants, pursuant to proposed § 1607.2, requested special exception relief from the step back requirements to permit a 12-foot step back above a height of 80 feet along Half Street. Mr. Sher testified that the requested special exception is in harmony with the general purpose and intent of the Zoning Regulations and the Zoning Maps. The 12-foot step back will provide reasonable apartment depths on the 8th, 9th, and 10th floors, which will be lost if the Applicants are required to comply with proposed § 1607.2's minimum step back of 20 feet at a height of 65 feet. The 4-foot setback is an architectural marker that will provide compositional relief to an otherwise flat façade. The requested special

Z. C. ORDER NO. 06-46
Z.C. CASE NO. 06-46
PAGE 7

exception from the step back requirements on Half Street will not adversely affect the use of neighboring property.

Requested Areas of Relief: Variances

20. The Applicants, pursuant to § 1604.9, requested: (1) a variance from the private residential recreation space requirements of the CR District; (2) a variance from the loading requirements of the CR District; (3) a variance from the step back requirements of proposed § 1607.2; (4) a variance from the ground floor preferred uses requirements of proposed § 1607.3; (5) a variance from the requirements of proposed § 1607.4 for street frontage along Half Street, S.E.; and (6) a variance from the minimum floor-to-ceiling clear height requirements of § 1607.5. The Applicants withdrew their request for a variance from the percentage of lot occupancy requirements.

Uniqueness of the Property

21. The Applicants explained, in their pre-hearing and post-hearing filings, as well as in their testimony before the Commission, that the Subject Property is unique due to its large size, the entrance to the Navy Yard Metrorail Station located on site, and the need to comply with the provisions of both the CG Overlay District and the CR District. The Subject Property is a large site that fronts on both M Street and Half Street. It is required to comply with both the CG Overlay provisions for buildings, structures, and uses on M Street and the CG Overlay provisions for buildings, structures, and uses on Half Street. The presence of the Navy Yard Metrorail Station limits the design and allocation of uses within the proposed development. Thus, the Applicants have met their burden of showing that the property is unique.

Private Residential Recreation Space Requirements of § 635

22. The private residential recreation space provisions of the Zoning Regulations require that the Applicants devote an area equal to 15% of the residential gross floor area (or 48,000 square feet) to private residential recreation space. The proposed development devotes approximately 4,500 square feet (or 1.5% of the residential gross floor area) to private residential recreation space. Compliance with the private residential recreation space requirement would require the Applicants to devote 43,500 square feet of gross floor area designated to residential units or preferred retail uses to private residential recreation space. A change in the allocation of gross floor area devoted to residential units will require that the Applicants reduce the size and number of residential units and substantially alter their provision of retail, residential, and hotel uses in order to provide the required amount of private residential recreation space.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 8

23. On January 7, 2007, the Commission took final action to repeal the residential recreation space requirements of the Zoning Regulations. Thus, the Applicants will not be required to comply with § 635 of the Zoning Regulations.

Loading Requirements of § 2201

24. The loading provisions of the Zoning Regulations require that the Applicants provide two 55-foot loading berths, five 30-foot loading berths, and four 20-foot service/delivery spaces. The proposed development provides one 55-foot loading berth, three 30-foot loading berths, and two 20-foot service/delivery space for the residential building and three 30-foot loading berths for the office building. Compliance with the loading requirements would force the Applicants to eliminate a portion of the ground floor area devoted to preferred uses and to alter their provision of proposed uses.
25. In their pre-hearing filing, the Applicants submitted a traffic impact study. That traffic impact study found that the number of loading berths required by the Zoning Regulations does not correspond with the demand in a mixed-use development nor do the regulations reflect consideration of how and when loading berths may be shared among the various uses. The traffic impact study concluded that the Applicants' proposed provision of loading berths and service/delivery spaces should adequately meet the needs of the proposed uses. The Applicants also stated that DDOT had no objection to this area of relief. Thus, a variance from the loading requirements will not create a substantial detriment to the public good nor will it substantially impair the zone plan.

Step Back Requirements of Proposed § 1607.2

26. The proposed step back provisions of the CG Overlay require that any portion of a building or structure that exceeds 65 feet in height must provide a minimum step back of 20 feet in depth from the building line along Half Street, S.E. The Applicants requested a variance from the step back requirements to permit a 4-foot setback for 17 linear feet at the northern end of the hotel facing Half Street. The 4-foot setback will serve as an architectural marker that provides compositional relief to the building façade.
27. The Applicants explained that strict application of the step back provisions of the CG Overlay would require the Applicants to develop alternative means for creating compositional relief for an abnormally long building façade, but this explanation is insufficient to meet the variance test.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 9

Ground Floor Preferred Uses of Proposed § 1607.3

28. The Applicants requested a variance from proposed § 1607.3, which requires that each new building shall devote not less than 75% of the gross floor area of the ground floor to retail service, entertainment, or arts uses. The Applicants testified that compliance with proposed § 1607.3 would require the Applicants to eliminate access to residential, hotel, and office uses and the extension of Cushing Place to N Street.
29. The proposed development will provide 56.3%, or 51,010 square feet, of gross floor area of the ground floor to preferred uses. A portion of the gross floor area of the ground floor will be devoted to lobby space for residential, hotel, and office uses, which start at the second floor. Of the difference between the required 75% and the provided 56.3% of gross floor area of the ground floor to preferred uses, 11,400 square feet will be devoted to the Navy Yard Metrorail Station entrance and the extension of Cushing Place to N Street.

Street Frontage along Half Street Requirements of Proposed § 1607.4

30. Pursuant to proposed § 1607.4, preferred uses must occupy 100% of the building's street frontage along Half Street, S.E., except for space devoted to building entrances or required to be devoted to fire control. Compliance with proposed § 1607.4 would create a practical difficulty for the Applicants, because the Applicants have no control over the amount of space devoted to the Metrorail Station entrance, which occupies 17% of the street frontage along Half Street.

Minimum Floor-to-Ceiling Clear Height Requirements of Proposed § 1607.5

31. The Applicants have requested relief from the minimum floor-to-ceiling clear heights for ground floor preferred uses requirement of proposed § 1607.5 to provide floor-to-ceiling clear heights of 13 feet in the retail space labeled "Retail 7" on the Architectural Plans and Elevations, 11 feet, 6 inches in the retail space labeled "Retail 5a" on the Architectural Plans and Elevations, and 11 feet in back of house space located below residential space. Retail 7 and Retail 5a can be found on Sheet A1 of the Architectural Plans and Elevations. The Applicants testified that compliance with proposed § 1607.5 would result in the loss of one floor due to the maximum building height of 110 feet and would require the Applicants to change their mixed-use program.
32. Proposed § 1607.5 requires that the minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses be 14 feet. A floor-to-ceiling clear height of 13 feet is provided in Retail 7, because the site slopes along N Street. The retail areas to the west and east of Retail 7 will have floor-to-ceiling clear heights in excess of 14 feet.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 10

33. Retail 5a will have a floor-to-ceiling height of 11 feet, 6 inches at the ground floor, in order to accommodate the placement of the main hotel lobby and bar on the second floor. The Applicants propose to construct an exterior, covered stair connecting the second floor directly to the street in order to create a lively, attractive atmosphere for hotel guests and other patrons. Because the hotel lobby and bar are intended to be lively, attractive places, the ceiling heights for the hotel lobby and bar are taller than the typical ceiling height of 9 feet, 8 inches found on the rest of the South building's second floor. The additional ceiling height has been transferred from the ground floor area below the hotel to the hotel lobby and bar on the second floor.
34. A floor-to-ceiling height of approximately 11 feet is provided for back of house space located below residential space and back of house space that stores large air handling equipment and kitchen exhausts. Storage facilities, kitchens, administrative offices, and other service areas associated with preferred uses are considered "back of house space." The Applicants have provided a section showing back of house space on Sheet A19 of the Architectural Plans and Elevations.
35. The proposed development requires a floor-to-ceiling clear height of approximately 11 feet for back of house space for two reasons. First, residential space requires a significant amount of mechanical equipment, which must be located below the residential space. Thus, a portion of the ceiling height for ground floor preferred uses must be devoted to equipment that serves the residential uses. Second, a portion of the ground floor preferred uses will require additional space for larger mechanical equipment, such as kitchen exhausts and other equipment associated with restaurant use. The size of mechanical equipment varies depending on the type of use and type of mechanical equipment selected.

Applicant's Responses to Areas Identified as Requiring Additional Information

Design and Operation of Monument Place

36. In response to the Commission's request for additional information, the Applicants, in their post-hearing filing dated January 25, 2007, have provided more information on the design and operation of Monument Place, a new 30-foot wide east-west connection, located between the office and residential buildings. Monument Place provides for vehicular and pedestrian circulation between Half Street and Cushing Place.
37. The 30-foot width of the connection includes a 4-foot pedestrian zone adjacent to the North Building, a 12-foot drive line, an 8-foot vehicular lay-by lane for the hotel and a 6-foot pedestrian zone adjacent to the South Building. The pedestrian zones are demarcated with a line of bollards that serve as a protective barrier for pedestrians and the buildings. Pedestrians will use Monument Place to access the retail elevators and the hotel entrance.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 11

38. The vehicular circulation program is designed to be one-way east bound, from Half Street to Cushing Place. The one-way vehicular circulation program provides a number of benefits to the proposed development. It enhances pedestrian safety by providing unobstructed views of pedestrians from Half Street. The width of Monument Place is minimized in order to maximize the retail frontage and the amount of natural light to the hotel and office uses. The lay-by zone as designed minimizes the traffic impact on Half Street and Cushing Place.

LEED Certification Standards

39. The Applicants in their post-hearing filing have submitted a summary of the sustainable design features based on LEED certification categories that are likely to be incorporated into the proposed development. The Applicants also stated that at least 30 percent of the roof areas for the proposed development will be green roofs. Those green roofs will include a sorghum green roof system located on the penthouse roofs and a green roof over at least half of the central courtyard located at the second floor.

Proposed Streetscape & Interim Plan for Half Street

40. The Commission asked the Applicants to meet with DDOT regarding its approval of the proposed streetscape plan and to develop an interim plan for Half Street, S.E. As stated in their post-hearing filing, the Applicants and their design team met with representatives of DDOT to review the proposed streetscape improvements included in this submission. DDOT was represented by members of its Ward 6 Transportation Planning team, Anacostia Waterfront Initiative ("AWI") team, and Traffic and Safety Division.
41. At that meeting, the Applicants presented their vision for Half Street, which included a discussion of grading, paving, street furniture, lighting, and pedestrian and vehicular circulation. The Applicants also explained key design elements such as the materials to be used, the elimination of curbs in the street section, the proposal of a raised section at the intersection of N and Half Streets, drainage, and planted storm water retention beds.
42. Representatives from DDOT noted that the proposed materials and street furniture deviated from AWI standards and that DDOT's position is that the Applicants would be responsible for the maintenance of those non-standard elements. In response to DDOT's position, the Applicants have identified standard DDOT pavers that will be incorporated into the current design.
43. The Applicants, in their post-hearing filing, provided an interim plan for Half Street on Sheets L2 through L4 of the Architectural Plans and Elevations. As of Opening Day

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 12

for the Nationals, April 2008, construction of the Metrorail station expansion will be complete. However, the Applicants' office building above the Metrorail station and the residential buildings at the southern end of Half Street will remain under construction during the first season of play at the new stadium. The Applicants intend to provide a covered walkway in the eastern curb lane of Half Street between M and N Streets during this first season. The Applicants anticipate that, by April 2009, construction of the buildings will be complete and the street paving will be in place for the eastern pedestrian zone and street area from east trench drain to west trench drain.

Traffic Plan for Game Days

44. At the public hearing, the Commission asked the Applicants to provide information concerning the traffic plan for game days. The Applicants, in their post-hearing submission, stated that they have been in contact with DDOT, the Sports and Entertainment Commission ("SEC"), and Gorove/Slade Associates, the traffic consultant developing the new Ballpark Traffic Operations Control Plan ("Ballpark TOCP"), to acquire information regarding the new Ballpark TOCP. The Applicants reported that, based on communication with DDOT and Gorove/Slade Associates, a draft Ballpark TOCP is not expected until April 2007. The Applicants stated that they will continue to coordinate with DDOT and the SEC as the Ballpark TOCP is developed.

Description and Study of the Retail Elevator

45. The Commission requested that the Applicants provide a description of the elevator from the parking garage to street level and study the location of that elevator. In their post-hearing submission, the Applicants describe the elevator as a way to transport guests from the parking garage directly to preferred uses located at the ground floor. The Applicants also have completed a study of the location of the elevator and have relocated the elevator from its original location along Half Street to Monument Place. The Applicants explained in their post-hearing submission that the placement of the elevator along Monument Place will provide additional street frontage for preferred uses along Half Street.

Location of the Hotel Lobby

46. The Commission asked the Applicants to provide information regarding the likelihood of relocating the hotel lobby to the first floor. In their post-hearing submission, the Applicants stated that the hotel lobby will remain at the second floor. The Applicants have proposed to construct an open, interior stair connecting the ground floor to the second floor in order to create a lively, attractive atmosphere for hotel guests and other patrons. The open, interior stair will also enhance the pedestrian experience as well as the streetscape.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 13

Showers for Office Tenants

47. In response to the DDOT report requesting that the proposed development provide shower facilities for the employees of and visitors to the commercial component, the Commission requested that the Applicants confirm whether or not they would provide shower facilities for the office building. In their post-hearing submission, the Applicants stated that they will rough in the plumbing for shower facilities and leave to the office tenants the decision as to whether the shower facilities should be built out.

Restudy of Roof Structure Located on the Hotel Roof

48. The Commission asked the Applicants to restudy the roof structure located on the hotel roof. The Applicants have redesigned the penthouse structure located on the low roof of the hotel to minimize the visual impact of the penthouse structure. The penthouse structure has been reduced in height from 15 feet to 6 feet. The larger mechanical equipment has been relocated to locations within the South Building. The penthouse structure is set back a distance greater than 6 feet from all exterior walls and, therefore, complies with the zoning provisions concerning setbacks.

Signage at the Northeastern Corner of the Site and on the Roof of the South Building

49. The Commission requested an explanation of signage at the northeastern corner of the site and on the roof of the South Building. In their post-hearing submission, the Applicants replaced the banner sign located at the northeastern corner of the site, above the Metrorail station entrance in the previous submission, with a vertical architectural element related to the truss. The vertical element has been incorporated to emphasize the importance of the location at the corner of Half and M Streets and to assist in identifying the Metrorail station entrance.
50. For the signage located on the roof of the South Building, the Applicants provided two alternatives for the hotel sign located on the roof of the South Building, one with the embellishments and one without. The two alternatives to the hotel sign are illustrated in Sheets A9 and A9a in the Architectural Plans and Elevations.

Office of Planning Report

51. Through testimony presented at the public hearing, the Office of Planning ("OP") recommended approval of the proposed development subject to the receipt of additional information outlined in their January 3, 2007 report. OP concluded that the review of the proposed development under the provisions of the CG Overlay District is appropriate and no planned unit development or rezoning approval is required. OP found that the proposed development is consistent with and furthers the goals of the Comprehensive Plan and the planning principles of the AWI.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 14

52. OP had no objection to granting the requested variances from the private residential recreation space requirements of § 635, the loading requirements of § 2201, the requirements of § 1607.2 for ground floor preferred uses, the minimum floor-to-ceiling clear height requirements of § 1607.5, the step back requirements of § 1607.2, and the requirements of § 1607.4 for street frontage along Half Street, S.E. OP also had no objection to the special exceptions for roof structures under § 639 and for the step back requirements of § 1607.2.
53. In its January 3, 2007 report, OP stated that it believes the proposed development will provide an attractive gateway to the baseball stadium, provide for pedestrian movement to and from the Navy Yard Metrorail Station, and help achieve an active, mixed-use neighborhood, all while keeping with the objectives of the CG Overlay. However, OP requested additional information regarding architecture and streetscape in order to complete their evaluation of the proposed development.
54. The Applicants provided additional information regarding architecture and streetscape in their presentation at the January 11, 2007 public hearing on the matter and in their post-hearing filing dated January 25, 2007.

Other Governmental Agency Reports

55. By report dated January 5, 2007, DDOT recommended approval of the application subject to the following conditions: (1) design and installation by Applicants of a traffic signal at Half and M Streets, S.E.; (2) right-in/right-out control at Cushing Place and M Street, S.E. during peak hours; (3) truck delivery restrictions during peak hours; (4) negotiation of acceptable uses and operation of on-site parking spaces; (5) agreement and adherence to Transportation Demand Management measures to promote alternative modes of travel; (6) continued coordination with DDOT regarding ballpark operations; (7) continued coordination with WMATA regarding Navy Yard Metrorail Station improvements; and (8) DDOT approval of the conceptual designs for Half Street between M and N Streets, S.E. At the public hearing, the Applicants testified that they would pay 40% of the costs for the installation of the traffic signal at Half and M Streets, S.E., agreed to DDOT's request for right-in/right-out control at Cushing Place and M Street, S.E., and agreed to provide car share spaces for the commercial portion of the proposed development. The Applicants also agreed to provide transportation management information online, to provide bicycle storage facilities, and to continue coordination with District agencies regarding ballpark operations and Navy Yard Metrorail Station improvements.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 15

CONCLUSIONS OF LAW

1. The application was submitted, pursuant to 11 DCMR § 1604.1 and proposed § 1610, for review and approval by the Commission. The application, pursuant to 11 DCMR § 1604.9, requested special exception and variance relief for the proposed development.
2. The Commission provided proper and timely notice of the public hearing on this application, by publication in the *D.C. Register*, and by mail to ANC 6D, OP, and to owners of property within 200 feet of the site.
3. Pursuant to 11 DCMR § 1604, the Commission required the Applicants to satisfy the burden of proving the elements that are necessary to approve the overall project under § 1604; establish the case for special exception relief from the roof structure requirements of §§ 639.1 and 411.11; establish the case for special exception relief from the step back requirements of § 1607.2; satisfy the requirements for variance relief from the private residential recreation space provisions of § 635; meet the elements for variance relief from the loading provisions of § 2201; satisfy the elements for variance relief from the step back provisions of proposed § 1607.2; meet the requirements for variance relief from the ground floor preferred uses provisions of proposed § 1607.3; satisfy the requirements for variance relief from the provisions of § 1607.4 for street frontage along Half Street, S.E.; and meet the requirements for variance relief from the minimum floor-to-ceiling clear height provisions of § 1607.5.
4. The proposed development is within the applicable height, bulk, and density standards of the Zoning Regulations, and the height and density will not cause a significant adverse effect on any nearby properties. The residential, office, hotel, and retail uses are appropriate for the site, which is located in the CG/CR District. The impact of the project on the surrounding area is not unacceptable. The proposed development has been appropriately designed to complement existing and proposed buildings adjacent to the site, with respect to height and mass.
5. No person or parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Commission to grant this application would not be adverse to any party.
6. Approval of the proposed development is not inconsistent with the Comprehensive Plan.
7. The Commission is required under D.C. Code Ann. § 1-309.10(d)(3)(A)(2001) to give "great weight" to the issues and concerns of the affected ANC. As is reflected in the Findings of Fact, at its duly notice meeting held on January 8, 2007, ANC 6D, the ANC within which the Subject Property is located, voted 4-0-2 in support of the application for CG Overlay District Review.

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 16

8. Based upon the record before the Commission, having given great weight to the views of the ANC, having considered the testimony of AWC, and having considered the report and testimony OP provided in this case, the Commission concludes that the Applicants have met the burden of satisfying the applicable standards under 11 DCMR § 1604 and proposed § 1610, the independent burden for each special exception, and all but one of the variances requested.
9. The Commission concludes that the Applicants failed to meet the burden of satisfying the applicable standards for variance relief from proposed § 1607.2 in order to permit a four-foot setback, instead of the required 20-foot setback, from the building line along Half Street. The three-part variance test requires the Applicants to show an extraordinary or exceptional situation or condition resulting in practical difficulties to the Applicants in complying with the Zoning Regulations, and relief can only be granted where there will be no substantial detriment to the public good or substantial impairment of the zone plan. (11 DCMR § 3103.2.)

The Commission concludes that the property exhibits the extraordinary or exceptional conditions necessary to meet the first part of the variance test (*See*, Finding of Fact No. 21), but fails to see how, in the context of this particular variance request, the second part of the test is met. There is no evidence that meeting the 20-foot setback requirement results in any particular practical difficulties for the Applicants. As stated in Finding of Fact No. 27, the Applicants explained that, without this variance, it would need to "develop alternative means for creating compositional relief" for the building façade. The Applicants' statement belies the fact that other alternatives are available, and its evidence did not show that such alternatives, perhaps not requiring zoning relief, had been attempted, but somehow failed, thereby leaving the Applicant with the need to request this variance relief. Because the second part of the test is not met, the Commission does not need to reach a determination of the third part of the test.

10. The application for CG Overlay District Review will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and the Map of the District of Columbia.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL**, consistent with this Order, of the application for CG Overlay District Review. This approval is subject to the following guidelines, conditions, and standards:

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 17

1. The approval of the proposed development shall apply to Lots 3, 98-118, 144-147, 161, 162, 167, 815, and 824 in Square 701 and portions of the public alley in Square 701 closed on an emergency basis pursuant to Emergency Alley Closing Legislation.
2. The project shall be built in accordance with the Architectural Plans and Elevations, marked "Exhibit A" in the post-hearing filing, dated January 25, 2007, and marked Exhibit 33 in the record of the case, as modified by the guidelines, conditions, and standards below.
3. The project in its entirety shall include a maximum of 277,600 square feet of gross floor area of office space, a maximum of 105,560 square feet of gross floor area of hotel space, a maximum of 51,010 square feet of gross floor area of retail space, and 320,100 square feet of gross floor area of residential space. The distribution of uses and densities shall be as shown on Sheet D1 of the Architectural Plans and Elevations.
4. The overall maximum permitted density shall be 7.44 FAR. In order to achieve the maximum permitted density, the Applicants shall transfer non-residential density from Lots 33, 37-39, 43, 45, 46, 802, 803, 841, 850, and 868 in Square 700 by the process set forth in § 1602.1 and those same lots shall receive a like amount of residential density.
5. Except for roof structures, the maximum permitted heights of the North and South Buildings shall be 110 feet. Roof structures shall be as shown on Sheet A7 of the Architectural Plans and Elevations.
6. The project shall include a minimum of 264 off-street parking spaces for residential use and 279 off-street parking spaces for hotel, office, and retail uses including vault spaces.
7. The landscape treatment shall be as shown on Sheet L1 of the Architectural Plans and Elevations, subject to DDOT approval.
8. The interim plan for Half Street shall be implemented in accordance with Sheets L2 – L4 of the Architectural Plans and Elevations.
9. In accordance with proposed § 1607.2, a 12-foot step back shall be provided above a height of 80 feet along Half Street, as shown on Sheets A5 and A7 of the Architectural Plans and Elevations.
10. A minimum floor-to-ceiling clear height of 14 feet shall be provided in those areas designated for ground floor preferred uses, except for:
 - a. Retail 7, which shall provide a minimum floor-to-ceiling clear height of 13 feet for ground floor preferred uses;

Z. C. ORDER NO. 06-46

Z.C. CASE NO. 06-46

PAGE 18

- b. Retail 5a, which shall provide a minimum floor-to-ceiling clear height of 11 feet, 6 inches for ground floor preferred uses; and
 - c. A minimum floor-to-ceiling clear height of 11 feet shall be provided for back of house space.
- 11. One 55-foot loading berth, three 30-foot loading berths, and two 20-foot service/delivery spaces shall be provided for the proposed development.
 - 12. A minimum of 56.3%, or 51,010 square feet, of gross floor area of the ground floor shall be devoted to preferred uses.
 - 13. The new 30-foot-wide east-west connection, labeled "Monument Place" on Sheet A1 of the Architectural Plans and Elevations, shall consist of a 4-foot pedestrian zone adjacent to the North Building, a 12-foot drive lane, an 8-foot vehicular lay-by lane for the hotel use, and a 6-foot pedestrian zone adjacent to the South Building. The pedestrian zones shall be demarcated with a line of bollards.
 - 14. The vehicular circulation program for the new 30-foot-wide east-west connection shall be one-way east bound, from Half Street, S.E. to Cushing Place, S.E.
 - 15. The Applicants shall provide sustainable building design features as set forth in "Exhibit B" of the Applicants' post-hearing filing, dated January 25, 2007 (Exhibit 33). At least 30% of the roof areas for the proposed development shall be green roofs.
 - 16. The elevator from the parking garage to street level shall be located on Monument Place, as shown on Sheet A1 of the Architectural Plans and Elevations.
 - 17. The main area of the hotel lobby shall be located on the second floor of the South building with ground floor entry provided as shown on Sheet A4 of the Architectural Plans and Elevations.
 - 18. The Applicants shall rough in the plumbing for shower facilities, leaving the decision to build out the facilities to the office tenant.
 - 19. Signage located on the roof of the South Building shall be consistent with the illustrations on Sheets A9 and A9a of the Architectural Plans and Elevations.
 - 20. The Applicants shall contribute up to 40% of the costs for the installation of the traffic signal at Half and M Streets, S.E.
 - 21. The Applicants are required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance

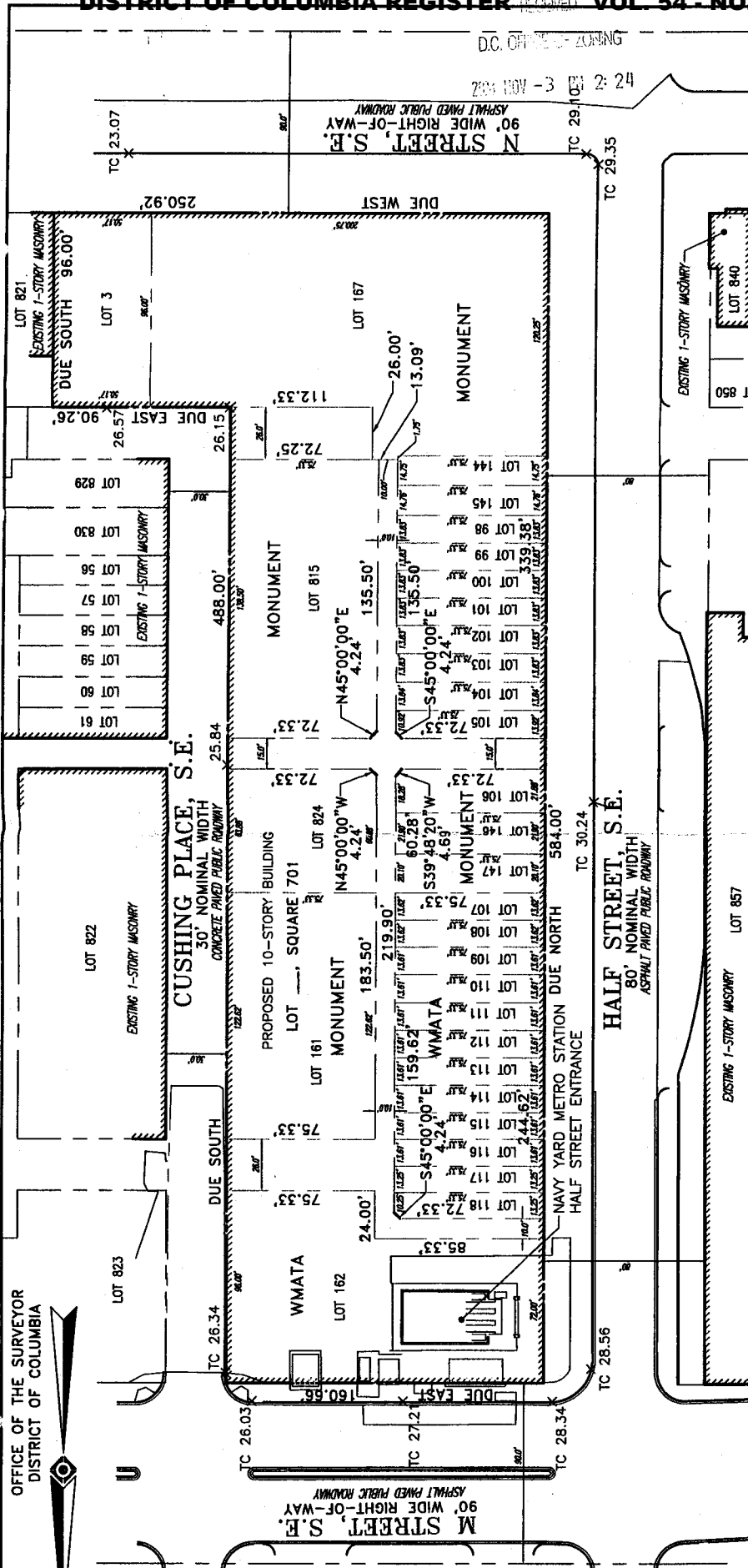
Z. C. ORDER NO. 06-46
Z.C. CASE NO. 06-46
PAGE 19

with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq. (the "Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action. The failure or refusal of the Applicants to comply with the Act shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On February 12, 2007, the Zoning Commission **APPROVED** the application by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to approve).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on February 12, 2007 by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on NOV 23 2007.



SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THE PROPERTY LINES AND BEARINGS AND DISTANCES HEREON ARE BASED UPON SURVEYED INFORMATION BASED UPON A BOUNDARY SURVEY PERFORMED BY CONTROL POINT ASSOCIATES, INC. AND VIKI INCORPORATED IN 2005 AND 2006. THE PROPOSED IMPROVEMENTS ARE CORRECTLY DRAWN ON THE PROPERTY. THIS EXHIBIT WAS PREPARED FOR THE PURPOSES OF THE ZONING SUBMITTAL FOR THE PROPERTY DESCRIBED HEREON.

No. 900573

REGISTERED

DISTRICT OF COLUMBIA

SURVEYOR

#900573

DATE

10/10/06

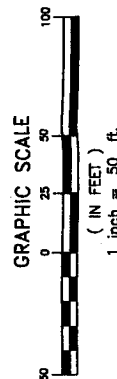


EXHIBIT PLAT

LOT TO BE RECORDED

SQUARE 701

DISTRICT OF COLUMBIA

SCALE: 1" = 50' OCTOBER, 2006



22530 DAVIS DRIVE, SUITE 200
STERLING, VIRGINIA 20164
703.904.9400 FAX 703.904.9197

35 TECHNOLOGY DRIVE
WARREN, NJ 07059
908.668.0099 FAX 908.668.9595

S062029EX

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA**Z.C. ORDER NO. 07-23****Z.C. Case No. 07-23****(Georgetown University – Construction of New Science Center, Athletic Training Facility,
and Modification of Multi-Sports Facility)****October 22, 2007**

Application of the Presidents and Directors of Georgetown College (the "Applicant"), pursuant to 11 DCMR §§ 210 and 3104, for special exception approval of further processing applications for (1) the construction of a new Science Center, (2) construction of a new Athletic Training Facility, and (3) modifications to the approved Multi-Sport Facility; and approval of an amendment to an approved campus plan to accommodate the Athletic Training Facility. In addition, the Applicant requests technical relief from the Zoning Regulations that includes (1) a special exception pursuant to §§ 411 and 3104 to locate the rooftop structure on the Science Center within the required setback from the exterior walls and (2) a variance pursuant to § 3103 for the rooftop structure on the Science Center to exceed the height limit for roof structures.

HEARING DATE: October 22, 2007**DECISION DATE:** October 22, 2007 (Bench Decision)**SUMMARY ORDER**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, by mail to Advisory Neighborhood Commission ("ANC") 2E, and to owners of property within 200 feet of the site. The campus of Georgetown University is located within the jurisdiction of ANC 2E.

As directed by 11 DCMR § 3035.4, the Commission required the Applicant to satisfy the burden of proving the elements of § 210 of the Zoning Regulations, which are necessary to establish the case for a special exception for a college or university. Furthermore, as directed by 11 DCMR § 3119.2, the Commission has required the Applicant to satisfy the burden of proving the elements necessary to establish the case for a special exception pursuant to §§ 411.11 and 3104, and for variance relief pursuant to §§ 3103.2 and 400.7.

Z.C. ORDER NO. 07-23

Z.C. CASE NO. 07-23

PAGE 2

The Applicant requested flexibility to modify the design of the Athletic Training Facility in response to future comments from the Old Georgetown Board and Commission of Fine Arts, provided that the height and density of the structure will not be increased above the levels proposed in the application.

The D.C. Office of Planning ("OP"), in a report dated October 12, 2007, which was submitted into the record, concluded that the application is in conformance with the provisions of § 210 and recommended approval of the campus plan amendment, further processing applications, and special exception and variance relief for the new Science Center roof structure with the condition that all athletic events at the Multi-Sports Facility expected to draw over 100 visitors shall begin before 4:00 p.m. or after 7:00 p.m. The District Department of Transportation ("DDOT"), in a report dated October 10, 2007, which was submitted into the record, concluded that the projects will have negligible impacts on the transportation network and, therefore, DDOT had no objections to the proposal. ANC 2E submitted a letter to the Commission, dated October 4, 2007, in support of the application with the condition that the Multi-Sport Facility and Athletic Training Facility not be used for revenue-generating, non-University-related events.

Barbara Zartman of the Citizens Association of Georgetown ("CAG"), expressed concerns on CAG's behalf. The Commission determined that the bulk of the issues raised by CAG were unrelated to the application and were, therefore, outside the scope of the proceedings. With respect to the issues raised by CAG regarding the variance relief requested, the Commission determined that the application was clear and consistent regarding the relief requested and in any event satisfied the requirements of the Zoning Regulations.

Based upon the record before the Commission, the Commission concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 210 and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Commission further concludes that granting the requested relief will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Commission notes and gives great weight to, the recommendation of OP that the application satisfies the requirements of § 210 as well as the requirements for special exception and variance relief. The Commission also notes and gives great weight to the recommendation of ANC 2E that the proposed variance relief and special exception for the new Science Center roof structure will not impact neighboring properties and is required to permit the Applicant to achieve its meritorious goal of LEED Silver certification.

It is, therefore, **ORDERED** that the application be **GRANTED** subject to the following conditions:

1. All athletic events taking place at the Multi-Sport Facility expected to draw more than 100 visitors shall begin either before 4 p.m. or after 7 p.m.

Z.C. ORDER NO. 07-23
Z.C. CASE NO. 07-23
PAGE 3

2. The Multi-Sport Facility and Athletic Training Facility shall not be used for revenue-generating, non-University-related events.
3. The Applicant shall have flexibility to modify the design of the Athletic Training Facility in response to the Old Georgetown Board and Commission of Fine Arts, provided that the height and density do not exceed the amounts proposed in the application.

Pursuant to 11 DCMR § 3100.5, the Commission has determined to waive the requirement of 11 DCMR § 3125.3 that findings of fact and conclusions of law accompany the Order of the Commission. The waiver will not prejudice the rights of any party and is appropriate in this case.

VOTE: 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, Curtis Etherly, Jr. and Michael Turnbull to approve; John Parsons, not present, not voting).

BY ORDER OF THE D.C. ZONING COMMISSION

Each concurring member approved the issuance of this Order.

FINAL DATE OF ORDER: NOV 23 2007

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF

Z.C. ORDER NO. 07-23
Z.C. CASE NO. 07-23
PAGE 4

ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE COMMISSION ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., ("ACT"). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE ACT, THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION THAT IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES
PUBLICATIONS PRICE LIST**

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS (DCMR)

TITLE	SUBJECT	PRICE
1	DCMR MAYOR AND EXECUTIVE AGENCIES (JUNE 2001)	\$16.00
3	DCMR ELECTIONS & ETHICS (MARCH 2007)	\$20.00
4	DCMR HUMAN RIGHTS (MARCH 1995)	\$13.00
5	DCMR BOARD OF EDUCATION (DECEMBER 2002).....	\$26.00
6A	DCMR POLICE PERSONNEL (JUNE 2007).....	\$8.00
7	DCMR EMPLOYMENT BENEFITS (JANUARY 1986).....	\$8.00
8	DCMR UNIVERSITY OF THE DISTRICT OF COLUMBIA (JUNE 1988).....	\$8.00
9	DCMR TAXATION & ASSESSMENTS (APRIL 1998).....	\$20.00
10	DCMR DISTRICT'S COMPREHENSIVE PLAN (PART 1, FEBRUARY 1999)	\$33.00
10	DCMR PLANNING & DEVELOPMENT (PART 2, MARCH 1994) w/1996 SUPPLEMENT*	\$26.00
11	DCMR ZONING (FEBRUARY 2003).....	\$35.00
12	DCMR CONSTRUCTION CODES SUPPLEMENT (MARCH 2007)	\$25.00
13B	DCMR BOILER & PRESSURE VESSEL CODE (MAY 1984).....	\$7.00
14	DCMR HOUSING (DECEMBER 2004).....	\$25.00
15	DCMR PUBLIC UTILITIES & CABLE TELEVISION (JUNE 1998)	\$20.00
16	DCMR CONSUMERS, COMMERCIAL PRACTICES & CIVIL INFRACTIONS (JULY 1998).....	\$20.00
17	DCMR BUSINESS, OCCUPATIONS & PROFESSIONS (MAY 1990)	\$26.00
18	DCMR VEHICLES & TRAFFIC (APRIL 1995) w/1997 SUPPLEMENT*	\$26.00
19	DCMR AMUSEMENTS, PARKS & RECREATION (JUNE 2001)	\$26.00
20	DCMR ENVIRONMENT - CHAPTERS 1-39 (FEBRUARY 1997).....	\$20.00
20	DCMR ENVIRONMENT - CHAPTERS 40-70 (FEBRUARY 1997).....	\$26.00
21	DCMR WATER & SANITATION (FEBRUARY 1998).....	\$20.00
22	DCMR PUBLIC HEALTH & MEDICINE (AUGUST 1986).....	\$26.00
22	DCMR HEALTH CARE & COMMUNITY RESIDENCE FACILITIES SUPPLEMENT (AUGUST 1986 - FEBRUARY 1995).....	\$13.00
23	DCMR ALCOHOLIC BEVERAGES (AUGUST 2004).....	\$10.00
24	DCMR PUBLIC SPACE & SAFETY (DECEMBER 1996).....	\$20.00
25	DCMR FOOD AND FOOD OPERATIONS (AUGUST 2003)	\$20.00
26	DCMR INSURANCE (FEBRUARY 1985)	\$9.00
27	DCMR CONTRACTS AND PROCUREMENT (JULY 1988).....	\$22.00
28	DCMR CORRECTIONS, COURTS & CRIMINAL JUSTICE (AUGUST 2004).....	\$10.00
29	DCMR PUBLIC WELFARE (MAY 1987)	\$8.00
30	DCMR LOTTERY AND CHARITABLE GAMES (MARCH 1997).....	\$20.00
31	DCMR TAXICABS & PUBLIC VEHICLES FOR HIRE (JULY 2004)	\$16.00

Publications Price List (Continued)

OTHER PUBLICATIONS

2000 - 2005 Indices	\$40.00 + \$10.00 postage
1994 - 1996 Indices.....	\$52.00 + \$5.50 postage
1997 - 1998 Indices.....	\$52.00 + \$5.50 postage
Complete Set of <i>D.C. Municipal Regulations</i>	\$628.00
D.C. Register yearly subscription	\$195.00
Rulemaking Handbook & Publications Style Manual (1983).....	\$5.00
*Supplements to D.C. Municipal Regulations.....	\$4.00

MAIL ORDERS: Send exact amount in check or money order made payable to the D.C. Treasurer.
Specify title and subject. Send to: D.C. Office of Documents and Administrative Issuances, Room 520,
One Judiciary Square, 441 - 4th St., N.W., Washington, D.C. 20001. Phone: 727-5090

OVER THE COUNTER SALES: Come to Rm. 520, One Judiciary Sq., Bring check or money order.

All sales final. A charge of \$65.00 will be added for any dishonored check (D.C. Law 4-16)